

Chapter 246-366A WAC, Primary and Secondary Schools
Comments on Proposed Rule Filed as WSR 08-15-174, July 23, 2008
Official Comment Period through September 10, 2008
Index

Pages	Comment From
1-2	Stephen Cant, Department of Labor & Industries
3-4	Representatives Haigh, Sullivan, Priest, Anderson, Hunter, and Jarrett
5-6	Thomas Murphy, Federal Way Schools
7	Senators McAuliffe, Tom, Brandland, and King
8	Wendell Hadden, InterfaceFlor
9	James Green
10	Mary Lindquist, WA Education Association
11	Mark Cooper
12	Dan Fitzpatrick, St. Louise School
13-14	Patrick Young, NW Yeshiva High School
15	Dave Harton, Spokane Christian Academy
16	Representative Rolfes
17-20	Ted LaDoux, Western Wood Preservers Institute
21	David Webb, Creosote Council
22	Ellensburg School District
23	Del Dykstra, Sunnyside Christian School
24	Matt Kamps, Everett Christian School
25-28	Juliana Awbrey, Spokane Regional Health District
29-38	Greg Lee
39-41	Jean Orvis, Seattle Academy
42	Debbie Schindler, Lighthouse Christian School
43-44	James Green
45-47	Mary Sue Linville, WA Schools Risk Management Pool
48	Rick Mockler, WA State Association of Local Public Health Officials
49-56	Denise Stiffarm, Puget Sound School Coalition
57-76	Grace Yuan, Puget Sound School Coalition
77	Mark Cooper
78-80	Susan Davison, WA Education Association
81	Ed Foster, WA State Catholic Conference
82-83	Richard Best, Central Kitsap School District
84	James Green
85-88	Jim Hale, Wood Preservative Science Council
89	Concerned Everett Teacher
90	David Harton, Spokane Christian Academy
91	John Wolpers, Whatcom County Health Department
92-94	Tim Nogler, State Building Code Council
95-99	Web comments
100-106	Oral testimony August 27 and September 10, 2008
Late Comments	
107-108	Senator Keiser
109-110	Catherine Bambrick, Kittitas County Public Health Department
111-112	Janelle Neil, Academy Schools



1

RECEIVED
JUN 16 2008

STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
Division of Occupational Safety and Health
P.O. Box 44600 • Olympia, Washington 98504-4600

WA STATE BOARD OF HEALTH

June 13, 2008

Craig McLaughlin
Executive Director
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

RE: Board of Health Rulemaking for School Safety and Health

Dear Craig:

This letter is in response to your request that the Department of Labor & Industries (L&I) provide a written explanation of our authority for workplace safety and health issues affecting school faculty and employees.

Under the Washington Industrial Safety and Health Act (WISHA), adopted in 1973 in accordance with section 18 of the Federal Occupational Safety and Health Act (OSHA), OSHA delegated exclusive jurisdiction for employee workplace safety and health issues to L&I (RCW 49.17.270). WISHA applies to employment performed in any work place within Washington (RCW 49.17.030). WISHA rules must be at least as effective as the Federal OSHA equivalent.

With respect to the current Board of Health rulemaking on environmental health and safety standards for school facilities, we believe it is important for the Board of Health to recognize L&I's jurisdiction related to faculty and school employee safety and health. Further, should a faculty member or school employee bring issues of employee safety or health to our attention, L&I would consider whether any WISHA safety or health regulations had been violated; we would not apply or attempt to implement rules adopted by the Board of Health.


To clarify L&I's authority over worker safety and health, we suggest the following addition (i.e. underlined text) to your proposed WAC 246-366A-001, Introduction and purpose: "These rules establish minimum environmental health and safety standards for school facilities and are intended to promote a health and safety environment in school facilities. These rules are not intended to replace or supersede the Department of Labor & Industries' authority and jurisdiction over employee safety and health."



Craig McLaughlin
June 13, 2008
Page 2

If you have any questions, please feel free to contact me at by phone at (360) 902-9166,
or e-mail at cant235@Lni.wa.gov

Sincerely,



Stephen M. Cant, CIH
Assistant Director
Division of Occupational Safety and Health

cc: Mary Selecky, Secretary of Health, DOH
Bill White, Deputy Secretary, DOH
Judy Schurke, Director, L&I

State of
Washington
House of
Representatives



JUL 24 2008

RECEIVED

JUL 24 2008

WA STATE BOARD OF HEALTH

July 14, 2008

Mr. Treuman Katz, Chair
Board Members
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

Dear Mr. Katz and Members of the Board of Health:

We serve as members of the House Appropriations Subcommittee on Education as well as members of the Joint Task Force on Basic Education Finance.

We understand that the Board of Health is considering a change to the School Environmental Health & Safety Rules, Chapter 245-366 WAC, and that the Board is considering adoption of the Proposed Rules in fall 2008. On July 14, 2008, the House Appropriations Subcommittee on Education held a work session on the proposed K-12 Environmental Health and Safety Rules. We have a better appreciation of the fiscal impacts on school districts and the potential statewide costs associated with implementing many elements of the Proposed Rules.

As you may know, the Joint Legislative Task Force on Basic Education Finance is studying the funding structure of our K-12 public schools. The Task Force is in the midst of preparing a comprehensive report on the costs of basic education. We are looking at funding basic education in a systemic manner and the costs for implementing the Proposed Rules would need to be worked into the recommendations of the Task Force. Therefore, we ask that the Board of Health delay taking action on the School Rules until the Task Force completes its final report (due December 2008) and until the Legislature has an opportunity to address the costs associated with Rule implementation and to consider the costs in the context of other budget decisions. Thank you.

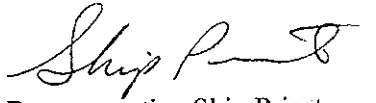
Sincerely,

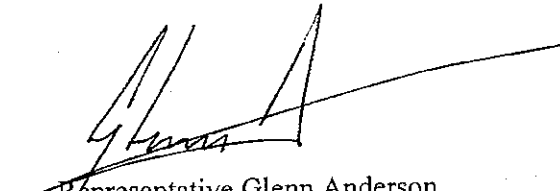
Handwritten signature of Representative Kathy Haigh in cursive script.

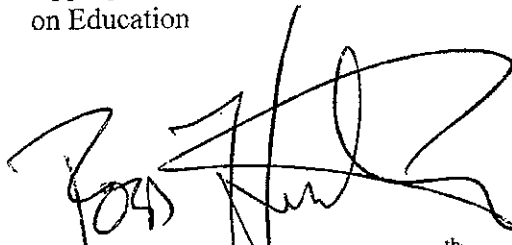
Representative Kathy Haigh
Chair, Appropriations Subcommittee
on Education


Handwritten signature of Representative Pat Sullivan in cursive script.

Representative Pat Sullivan
Vice Chair, Appropriations Subcommittee
on Education


Representative Skip Priest
Ranking Minority
Appropriations Subcommittee
on Education


Representative Glenn Anderson
Assistant Ranking Minority
Appropriations Subcommittee
on Education


Representative Ross Hunter (D-48th)


Representative Fred Jarrett (D-41st)

cc: Craig McLaughlin, Executive Director, Washington State Board of Health

31405 18th Ave. So.
Federal Way, WA
98003-5433
Tel 253.945.2000
www.fwps.org



Federal Way
Public Schools

c: Mary Selecky
Craig McLaughlin

July 21, 2008

RECEIVED

JUL 24 2008

OFFICE OF THE GOVERNOR

The Honorable Christine Gregoire
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire:

As you may know, the Washington State Board of Health is proposing changes to the School Environmental Health and Safety Rule, Chapter 245-366 WAC. The Board is considering adopting the Proposed Rules in fall 2008, with an implementation date of fall 2010. Other than parents and family members, there is no one who cares more deeply about the health and safety of students and staff than do the 295 Superintendents who work for the citizens of the State of Washington. While many of the proposals are nice ideas, school districts are being crushed by the weight of good intentions.

We are concerned about the unintended operational and economic impacts of the Board of Health's Proposed Rules on school districts. We estimate that it will cost Federal Way Public Schools an additional \$1.4 million in the first year to implement the Proposed Rules. To put this number into perspective, with staffing for nurses at half of the level that some would recommend (target ratio of 1 nurse to 750 students), my District currently spends \$1.4 million for nursing services. Without significant additional funding from the State to pay for the requirements imposed on school districts, Federal Way Public Schools will not be able to absorb the additional costs to implement the Proposed Rules. We are already looking at the potential of \$6 to \$8 million in cuts in the next school year.

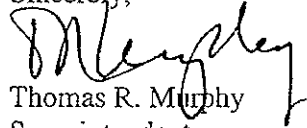
We hope that the Board of Health will not adopt the Rules without first outlining the anticipated health benefits and the costs of each proposed change and addressing the State funding needed to implement the Proposed Rules. Your office and the Legislature need to have the opportunity to address the costs associated with Rule implementation and to consider the fiscal impacts in the context of other budget decisions. The agency rule-making process must be coordinated with the state budget process, and these steps should take place before the Board takes action. Finally, we request that the Proposed Rules not go into effect until the Legislature has provided funding to pay for the new requirements statewide.

6

The Honorable Christine Gregoire
July 21, 2008
Page 2

Thank you for your attention to this important issue.

Sincerely,



Thomas R. Murphy
Superintendent
Federal Way Public Schools

c: Marty Brown, Legislative Director
Judy Hartmann, Policy Advisor
Grace T. Yuan, K&L Gates



Washington State Senate

RECEIVED

JUL 29 2008

WA STATE BOARD OF HEALTH

July 28, 2008

Mr. Treuman Katz, Chair
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

Dear Mr. Katz and Members of the Board of Health:

Thank you for your ongoing work to address environmental health and safety in our schools. We appreciate the dedicated work of the Board of Health to protect all children.

We know that the Board of Health staff and the Department of Health staff have worked with many stakeholders over the last few months to revise the Environmental Health and Safety Rule for the Board's consideration. Thank you for this collaborative process. We also know that the Department continues to refine cost estimates of the fiscal impact of the proposed rule change. The Department currently estimates that the operations and maintenance costs to implement the rule change will be about \$16 to \$20 million per year, though that does not include "start up" costs or the costs of remediation. We understand revised data suggests that the costs will be in the range of \$96 to \$120 million over a six-year period. We look forward to reviewing the refined cost-benefit analysis.

As you know, many legislators are concerned about the fiscal impact of the proposed rules on statewide education spending and on local school district budgets. We encourage you to consider delaying the adoption of the rule change until the Legislature has the opportunity to review the final cost estimates and to determine a funding mechanism. A significant part of our budget planning will be dependent on the anticipated Basic Education Finance Report in December 2008. By delaying adoption of the School Environmental Health & Safety Rule, the Legislature will be better able to address the costs associated with rule implementation and to consider the costs of the rule in the context of other budget decisions.

Sincerely,

Sen. Rosemary McAuliffe
Chair, Senate Education

Sen. Rodney Tom
Vice-Chair, Senate Education

Senator Dale Brandland
Ranking Minority Member,
Senate Ways & Means
Co-Chair, Joint Legislative Committee on
School Construction Funding

Senator Curtis King
Ranking Minority Member
Senate Education

PUBLIC TESTIMONY - Wendell Hadden

From: Wendell.Hadden@interfaceflor.com
[mailto:Wendell.Hadden@interfaceflor.com]
Sent: Thursday, July 31, 2008 7:39 AM
To: DOH WSBOH
Subject: Re: School Environmental Health & Safety Rule Update
Newsletter and NOTICE OF PUBLIC HEARING

To Whom it may concern

Please consider the following modification:

Floor materials are to be easily cleanable and dryable (may include tightly woven carpets or carpet tile with water impervious backing)

Thanks

Wendell Hadden
Vice President Institutional Segment
InterfaceFLOR Commercial
1503 Orchard Hill Road
LaGrange Georgia 30240
1 800 336 0225 x6115
1 706 333 0102 cell
wendell.hadden@interfaceflor.com
www.interfaceflor.com
www.interfacesustainability.com

(9)

PUBLIC TESTIMONY – James Green

Sent: Monday, August 04, 2008 6:39 PM
To: McLaughlin, Craig D (DOH); Mel Tonasket; Mark Cooper; Mark; Kathy O'Toole
Subject: Comments from James W Green RE: Budget Analysis Meeting

To All State Board of Health members and others:

Craig, could you see that all members receive this?

Here are my observations and comments from the Final Budget Analysis meeting. It seemed to me that strings and accountability to any funding is paramount. Several items of concern arose in this meeting such as printer language around venting (exhaust) and the water lead testing.

As I recall from previous meetings, consensus was built around achieving 100% K-12 over four years. Now only 25% of middle and high school over four years is required, leaving at best a result of 100% in 27 years (if ever) only if schools test a different 25% each cycle! To me this seems severely weakened and wrong!

Also, discussion came up around water impervious backed carpet. A question was asked if seams must be sealed? My further investigation found an entity attempting to include carpet tiles without sealing seams which even if water impervious carpet were used, the intent is defeated by allowing pathways for moisture and contamination under carpeting. Therefore the answer to the question is yes, all seams MUST be sealed. Even then there is some risk around perimeter of moisture incursion. I would offer an alternative of only hard surface and no carpet. Also in the process and discussion of what other expenses may have been missed relating to HVAC systems, several maintenance reps expressed concerns of qualified staff on payrolls to check systems and see they are operating as designed and to manufacturers specs, therefore creating a cost to hire outside experts (a justifiable concern). After several discussions on this issue amongst members I made the comment that we need to call it what it is and require commissioning as I have advocated all through this process and in writing of next draft wording gets changed. At least then you can better analyze the cost/benefit and remember this is one of the main elements for creating a healthy school environment. By doing this we can then move forward to secure funding.

I would like to express my thanks to the SBOH for allowing my input through this phase for consideration.

Sincerely,

James W Green



WEA
WASHINGTON
EDUCATION
ASSOCIATION

Sharing the power of knowledge.

Mary Lindquist, President
Mike Ragan, Vice President
John Okamoto, Executive Director

32032 Weyerhaeuser Way S.
Federal Way, WA 98001-9687
mailing address: P.O. Box 9100
Federal Way, WA 98063-9100

telephone: 253-941-6700
toll free: 800-622-3393

fax: 253-946-4692

www.washingtonca.org

Treuman Katz, Chair
Washington State Board of Health
PO Box 47990
Olympia WA 98504-7990

August 20, 2008

Dear Chairman. Katz:

On behalf of the 81,000 members of the Washington Education Association, I urge the members of the Board to adopt the proposed new school health rules without delay.

The urgent need for updated school health rules has been thoroughly demonstrated by public testimony from parents of students whose health has been damaged by unhealthy school environments. Many school buildings in Washington State pose a health hazard because no one has, for example, walked through them to note and remediate mold growth or water incursion that leads to mold growth. In other schools, student and staff absences spike because no one has checked the ventilation system to ensure that adequate outside air is pulled into the system and that the filters have been changed on schedule.

The construction related requirements of the proposed rules – those few rules that might cause additional costs – do not apply to schools for which a building permit application was filed before September 1, 2010; the standard regarding insulation of air ducts does not apply if a building permit application is filed before September 1, 2013. This allows school districts ample time to design new building plans to meet environmental health standards. Annual environmental health inspections by local health officers are not required until September 1, 2011; this allows local health jurisdictions time to obtain staff training. Initial water testing requirements for lead are not effective until 2010; repeat water monitoring is not required until 2017. The effective dates of copper testing requirements are further postponed. Adopting the rules immediately while setting a delayed effective date for certain provisions also gives districts and local health officers time to acquire any funding needed for compliance. The delayed effective dates strike a good balance between the urgent need to protect student and staff health, and districts' and local health officers' concerns regarding funding, staffing and planning.

Once adopted, the new rules will significantly enhance the safety and health of school buildings, providing much greater protection of student and staff health. WEA remains committed to working with the Legislature to provide the funding necessary to keep students and staff working in a healthy environment. WEA urges that the rules be adopted as soon as the public comment period ends.

Thank you.

Mary Lindquist
President, Washington Education Association

Chapter 246-366A WAC State Board of Health Primary and Secondary Schools

Commentator: Mark S. Cooper

E-mail: nano_fish@msn.com

Phone: 206-683-4182

Comment Date: Aug 28 2008 5:43PM

Comments:

A new subsection to WAC 246-366A-020 needs to be added, to clarify where the statutory authority and responsibilities of school officials and local health officers are derived from.

Suggested addition:

(g) WAC 246-366A was promulgated under RCW 43.20.050, and is enforceable under RCW 43.20.050(4).

This addition to WAC 246-366A-020 will clarify the intent of the revised WAC code. Most importantly, it will allow all interested parties to identify the relevant RCW that pertains to the actions and responsibilities of school officials and local health officers. RCW 43.20.050(4) is not currently transparent in the WAC code. Conflicts are likely to arise if the RCW pertaining to the authority and responsibilities of school officials and local health officers are not explicitly referenced in WAC 246-366A-020.

PUBLIC TESTIMONY - Dan Fitzpatrick

From: Fitzpatrick, Dan [mailto:danf@stlouiseschool.org]

Sent: Tuesday, September 02, 2008 3:35 PM

To: DOH EH School Rule

Subject: School Environmental Health and Safety Rule

To Whom It May Concern:

This letter is in response to the "Formal Rule Proposal for School Environmental Health and Safety." As the principal of a non-government-supported school (private school), I have strong concern for the impact this will have on our school and other, similar schools. I don't believe many of our private schools can absorb the cost of these new rules, which I understand will apply not only to school buildings, but to any facility (i.e. church, fellowship hall, etc) that houses children for educational purposes. Although the "spirit" of the rules is good, the practicality is very negative. I would ask that you please consider ways to alleviate the financial impact on private schools.

Thank you.

Sincerely,

Dan Fitzpatrick

Dan Fitzpatrick, St. Louise School Principal

133-156th Ave. SE

Bellevue, WA 98007

(425) 746-4220 ext. 105

danf@stlouiseschool.org

PUBLIC TESTIMONY - Patrick Young

From: Patrick Young [mailto:young@nyhs.com]
Sent: Tuesday, September 02, 2008 3:12 PM
To: Bernard, Nancy (DOH)
Cc: rfox@nyhs.com
Subject: Proposed Changes to Chapter 246-366 WAC

Nancy,

My name is Patrick Young. I am the Business Manager for the Northwest Yeshiva High School in Mercer Island.

This is a response to the proposed changes to the environmental health and safety rules for primary and secondary schools, Chapter 246-366 WAC:

While the intent of instituting mandatory Water Quality Monitoring for both Lead and Copper is commendable, these proposed regulations regarding stringent water quality testing are onerous and potentially very expensive for independent private schools.

The proposed regulation states that school officials must ensure that:

"The Environmental Protection Agency's (EPA) "3Ts For Reducing Lead in Drinking Water in Schools" (EPA publication 816-B-05-008) 1, called "EPA 3Ts publication," is used to:

- (i) design a sampling plan,
- (ii) sample the water,
- (iii) interpret test results,
- (iv) inform the public, and
- (v) correct any lead problems.

(b) A laboratory, accredited by a state agency to perform lead analysis according to EPA drinking water laboratory certification criteria, is used to analyze all samples.

(c) Sample sites consist of every outlet that is regularly used for cooking or drinking.

(d) A person is designated at each school facility that is responsible for collecting the water samples and ensuring the samples are properly tested. School officials shall ensure the designated person has sufficient training and knowledge to meet these responsibilities."

The Northwest Yeshiva High School is a small private high school with an enrollment of 95 students and a small administrative staff. Assuming that

there would be no lead or copper problems to correct, the demand on our manpower to design a plan, sample the water and interpret the results will be significant. Designating and training someone to be "responsible for collecting the water samples and ensuring the samples are properly tested" will cause additional undue strain to an already overworked administrative staff.

In addition to the demands on the staff's time, the costs of submitting samples to an "accredited" laboratory are not insignificant. For small schools like NYHS that frequently run at a deficit, any additional unbudgeted cost is a concern.

Finally, in addition to any expense we may incur in the testing process, we are also expected to pay fees to the Board of Health "to ensure that (our) school environmental health and safety program is adequately funded"?

So it appears that these proposed regulations are completely unfunded, with absolutely no expense incurred by the state. This seems poorly conceived, and truly meets the definition of an "unfunded mandate".

We urge the state to reconsider implementing these particular revisions.

Patrick Young
Business Manager
Northwest Yeshiva High School
206.232.5272
young@nyhs.com

PUBLIC TESTIMONY - David Harton

From: Laura Moore [mailto:Laura.Moore@k12.wa.us]
Sent: Wednesday, September 03, 2008 8:33 AM
To: Boe, Heather D (DOH)
Subject: FW: OSPI Bulletin B073--Health Department Rule Changes

Heather, this is a comment that was sent to me regarding the proposed rule changes and how it will affect a private school.

Laura Moore

Navigation 101/Private Education and Home-Based Instruction
360-725-6433
Fax: 360-664-3575

From: David Harton [mailto:dharton8909@comcast.net]
Sent: Tuesday, August 26, 2008 8:38 PM
To: Laura Moore
Subject: Re: OSPI Bulletin B073--Health Department Rule Changes

Dear Laura,

Most private schools are very small and do not have maintenance departments staffed with highly knowledgeable people in complex mechanical issues, nor do we have staff to analyze the complexities and impacts of new regulations. I would venture to say most small private school principals would just like to know the bottom lines. How are the proposed regulations different from the present regulations, what changes will I need to make and what is it likely to cost. Governmental agencies need to realize that small private schools do not receive tax money and all required improvements will be paid for by our parents, and congregations. Because of this, I would say there needs to be some exemptions for private schools for expensive modifications, upgrades and changes.

--
Dave Harton
Principal
Spokane Christian Academy
www.spokanechristianacademy.org
dharton8909@comcast.net
509.924.4888
509.924.0432 (fax)

STATE REPRESENTATIVE
23rd DISTRICT
CHRISTINE ROLFES
ASSISTANT MAJORITY WHIP

State of
Washington
House of
Representatives

TRANSPORTATION
SELECT COMMITTEE
ON PUGET SOUND
COMMUNITY & ECONOMIC
DEVELOPMENT & TRADE



RECEIVED

SEP 03 2008

WA STATE BOARD OF HEALTH

September 2, 2008

Craig McLaughlin, Executive Director
State Board of Health
MS 47990
Olympia, WA 98504

Dear Craig,

I understand that the Board of Health is currently conducting hearings regarding the Rule Proposal for School Environmental Health and Safety. I know that you have heard from many school districts and educational organizations with concerns about the cost burden to the schools, and I would like to add my voice to those concerns.

Of course, the safety of our children is of utmost concern to all of us. Most schools are doing everything in their power to keep their students safe, and imposing unfunded mandates on districts seems to make light of their efforts to manage their resources as efficiently as possible. I have heard from staff in one of the school districts in Kitsap County, who say they anticipate the increased cost of a new elementary school to be between \$200,000 and \$250,000. This is an incredible burden to place on schools already stretched too thin.

Asking school districts to choose between educating their students or improving safety measures is an untenable choice. Before you enact these rules, I request that you allow the Legislature to explore additional funding sources so we do not have to ask our schools to make this choice.

Thank you,

Christine Rolfes

Christine Rolfes



September 4, 2008

Ned Therien
101 Israel Road S.E.,
P.O. Box 47990
Olympia, WA 98504,

Subject: Western Wood Preservers Institute Comments Regarding Proposed New Regulation,
Chapter 246-366A WAC, Primary And Secondary Schools

Mr. Therien:

The Western Wood Preservers Institute (WWPI) is the trade association representing wood preserving companies and wood preservative manufacturers doing business in the western United States, including Washington State. I am writing to provide comments regarding the proposed new regulations of the Washington Administrative Code related to Primary and Secondary Schools. The new regulations include requirements related to treated wood that are unnecessary and misleading.

The specific sections of the regulation that concern the WWPI are as follows:

WAC 246-366A-060 General construction requirements. School officials shall:

(8) Prohibit the use of chromated copper arsenate or creosote treated wood where it is accessible to students.

WAC 246-366A-150 Playgrounds -- Construction and installation requirements. (1) School officials shall:

(d) Prohibit the use of chromated copper arsenate or creosote treated wood to construct or install playground equipment or landscape and other structures on which students may play.

WAC 246-366A-155 Playgrounds -- Operation and maintenance requirements. School officials shall:

(2) Prohibit the use of chromated copper arsenate or creosote treated wood to repair or maintain playground equipment or landscape and other structures on which students may play.

The prohibition on use of wood treated with CCA is unnecessary because the EPA approved pesticide labels for this preservative currently does not allow the uses being prohibited. Since the end of 2003, use of CCA treated wood is limited to heavy duty or industrial type applications, such as marine construction, transportation structures, and utility poles, and is

not approved for dimensional lumber for residential or commercial applications. CCA treated dimensional lumber can no longer be purchased at lumber stores because they now stock wood treated with non-arsenical preservatives.

The proposed regulations are misleading to the public because they 1) incorrectly imply that such a restriction is needed to prevent such uses (It is not, since such material is no longer available.), 2) will lead to confusion since wood treated with other preservatives may look the same, and 3) incorrectly imply that the presence of such treated wood would present a health risk (It would not, as shown below.).

The following discussion is intended to provide some facts and perspective related to these issues.

CCA-Treated Wood

Chromated copper arsenate (CCA) is a wood preservative that has been registered and approved by the US Environmental Protection Agency to protect wood from dry rot, fungi, molds, termites, and other pests that can threaten the integrity of wood products. It is injected by a process that uses high pressure to penetrate wood products with the pesticide.

CCA-treated wood has been used since the 1930's. Prior to December 31, 2003, CCA-treated wood had been produced for use in many areas including residential and recreational applications, such as decks, walkways, home fences, gazebos, and playground equipment. Since that date, the continued uses of CCA are limited mostly to industrial applications, such as, utility poles, bridges, bulkheads, highway applications, structural columns, agricultural uses, marine construction, and cooling towers.

In February 2002, the manufacturers of CCA individually informed the Agency that they would voluntarily cancel their registrations for non-industrial uses of CCA-treated wood, effective December 31, 2003. EPA praised the industry and remarked that this voluntary action has resulted in a transition, years ahead of what the government could have done through its standard regulatory process.

On its current website, at

http://www.epa.gov/oppad001/reregistration/cca/cca_consumer_doc.htm, EPA provides two key pieces of advice for consumers:

- *EPA does not believe there is any reason to remove or replace CCA-treated structures, including decks and playground equipment.*
- *EPA is not recommending surrounding soils be removed or replaced.*

US Consumer Product Safety Commission (CPSC), in referencing the pending transition, "voted unanimously today to deny a petition to ban the use of chromated copper arsenate (CCA) pressure-treated wood in playground equipment." (November 4, 2003)

The Commission correctly took the position that it made no sense to ban a product that would no longer be manufactured after December 31, 2003 and that existing inventories would be depleted by July of 2004.

In announcing the industry voluntary plan, EPA commented,

"EPA has not concluded that CCA-treated wood poses unreasonable risks to the public for existing CCA-treated wood being used around or near their homes or from wood that remains available in stores. EPA does not believe there is any reason to remove or

replace CCA-treated structures, including decks or playground equipment. EPA is not recommending that existing structures or surrounding soils be removed or replaced."
(Environmental Protection Agency, February 12, 2002)

<http://yosemite.epa.gov/opa/admpress.nsf/b1ab9f485b098972852562e7004dc686/1a8cfb4970823b3885256b5e006ffd67?OpenDocument>

More could be said, but the important message is that even if CCA treated lumber was available for construction in school grounds, it would not pose any significant risk.

As many people know, CCA treated wood is typically green or may be stained brown. New preservatives now in use, such as ACQ and copper azole, are also green and may also be stained brown. School officials may be forced to "prove" that treated wood installed meets the regulations or will simply choose more expensive non-treated wood products.

Creosote-Treated Wood

Unlike CCA, there is no prohibition or regulated use of wood pressure treated with creosote though the Consumer Information Sheet does recommend not using it where there will be frequent or prolonged contact with bare skin unless an effective sealer has been applied. However, it is unlikely creosote treated wood would be readily available for use in playground equipment though it is not uncommon for creosote treated railroad ties that have been taken out of service to be reused as a landscape retaining structure. It is important to note though, typically such railroad ties have been in use by railroads for 10 to 50 years before being taken out of service so that any creosote constituents remaining in the wood are quite stable and present minimal exposure potential.

Further Discussion

As the WWPI reads the proposed regulations, they seem not to prevent use of CCA or creosote treated wood utility poles, sign posts, or guard-rail posts on or near school grounds. However, this interpretation is not clear. The terms "*where it is accessible to students*" might easily be read to prevent such utility poles or posts anywhere on school grounds. If the restrictions remain in the regulations, utility poles and roadside sign and guardrail posts should be exempted from the regulation.

Wood is a cost effective and renewable resource that removes carbon dioxide from the air as it grows and when treated with a preservative it is held (sequestered) in the wood indefinitely. Confusion related to finding acceptable products will likely lead to choosing materials other than wood costing 2-3 times more, like galvanized steel or plastic, and the manufacture of which contributes to global warming due to the significant releases of carbon dioxide related to fossil fuel.

WWPI Position

The WWPI requests and recommends that the above quoted proposed sections of WAC 246-366A prohibiting the use of CCA or creosote treated wood be deleted. While we share your concerns and desire to protect our school children, the proposed rule does little in this regard because they prohibit something that would not happen anyway. They will likely result in confusion and unwarranted concern by the public. They may even cause schools to use more expensive, less safe, non-renewable materials than treated wood for other construction and maintenance projects.

Otherwise, should you choose to keep the prohibitions, then the WWPI recommends that utility and transportation related structures be exempted from the prohibitions.

Thank you for considering our comments and request. Please feel free to contact me if you have any questions.

Sincerely,

Ted LaDoux
Executive Director
Western Wood Preservers Institute

(21)

CREOSOTE COUNCIL

Post Office Box 160
Valencia, Pennsylvania 16059
Phone: 724-898-9663
www.creosotecouncil.org

September 4, 2008

Mr. Ned Therien
101 Israel Road SE
P. O. Box 47990
Olympia, WA 98504

**RE: Comments Regarding Proposed New Regulation, Chapter
246-366A WAC, Primary & Secondary Schools**

Dear Mr. Therien:

Creosote Council is a non-profit trade organization with members comprised of all the North American creosote registrants, who manufacture and/or import creosote. In addition we represent those companies who treat wood with creosote.

The comments provided relate to the new proposed regulations by the Washington Dept. of Health. These new regulations for creosote treated wood are misleading and unnecessary.

Under FIFRA, the US EPA regulates the use of creosote, not the use of creosote treated wood. Further for consideration, EPA has not prohibited, or attempted to regulate any use of creosote treated wood.

The major uses for creosote treated wood are commercial; generally limited to heavy duty construction – railroad crosstie, utility poles and piling materials. The only potential use would be landscape retaining walls. Typically such crosstie material has been “retired” from use by the railroads after 20 to 50 years service in the track bed. Exposure to such “retired” product would be minimal.

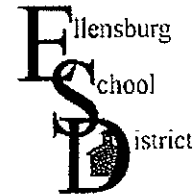
Treated wood is a cost effective renewable resource. It is significantly less expensive than the “so called” substitutes – steel and plastic materials. Appreciate the opportunity to comment on these proposed regulations. Please contact me if you have any questions.

Sincerely,

David A. Webb
Administrative Director, Creosote Council

Ellensburg School District #401

1300 East Third Avenue
Ellensburg, WA 98926-3576
(509) 925-8000 FAX (509) 925-8025
<http://eburg.wednet.edu>



27 August 2008

Mr. Treuman Katz, Chair
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

RECEIVED

SEP 05 2008

WA STATE BOARD OF HEALTH

Re: Department of Health Environmental Health and Safety Rule (CR-102)

Your objective to improve health and safety in schools is appreciated. Our Board of Directors has also had occasion to make changes to improve our vigilance on behalf of students and staff. As the Board of Directors, our fiduciary responsibility to citizens of Ellensburg to be diligent, as well, in use of scarce tax resources leads to the following concerns regarding the changes embedded in the Department of Health (DOH) CR-102 Proposed Rule Making:

1. Funding: The DOH has not adequately coordinated with the State Legislature to fully fund the impact of the proposed rules. It appears that the DOH intends to pass the costs of CR-102 down to the school districts without regard for funding the consequential increases in capital costs, operational costs and start-up costs, all of which will be significant.
2. Requiring another State agency to review plans for construction is redundant; current oversight by State and local building departments is adequate.
3. School districts are already required to use professional project managers to oversee major construction projects. The requirement for professional project managers, has given new school construction the quality assurance that was missing in the past. This has addressed the construction and operating issues that negatively affect students' health and safety.
4. As part of their insurance pools, districts have risk management advisors that annually inspect schools for the issues described CR-102.
5. In the challenging economic climate of today's Washington State, we should be looking for ways to decrease State government regulation and its associated cost, not increase it.
6. Instructional programs are likely to suffer if more taxes are necessary to support additional bureaucracy and oversight.

Due to the duplication of effort and the vast expanse of State-mandated but unfunded costs, the Ellensburg School District Board of Directors conclude that the DOH should not proceed with CR-102.

Very truly,

Ellensburg Board of Directors:

Anita Boyum, Board President
Bob Haberman, Vice President
Sandy Elliot, Legislative Liaison
Chuck Wahle, member
Patrick Gigstead, member

c/ Senator Janea Holmquist
Representative Judy Warnick
Representative Bill Hinkle

PUBLIC TESTIMONY - Del Dykstra

From: Bernard, Nancy (DOH)
Sent: Thursday, September 04, 2008 6:13 PM
To: DOH EH School Rule
Subject: FW: School Health & Safety Requirements

Nancy P. Bernard, MPH

Program Manager
 Indoor Air Quality/School Environmental Health and Safety
 Office of Environmental Health & Safety
 Washington State Department of Health
 P.O. Box 47825, Olympia, WA 98504-7825
 Phone: (360) 236-3072, FAX: (360) 236-2261
Nancy.Bernard@doh.wa.gov
<http://www.doh.wa.gov/ehp/ts/school/>
Public Health - Always Working for a Safer and Healthier Washington

From: Del [mailto:scoffice@embarqmail.com]
Sent: Thursday, September 04, 2008 8:54 AM
To: Bernard, Nancy (DOH)
Subject: School Health & Safety Requirements

Hi Nancy,

I wanted to respond to the new Washington State Health regulations and the meeting on September 10, 2008. After reviewing the information we (private schools) are concerned about the costs incurred for private schools, and the assumption by the department of health that tuition increases will meet financial needs. We intend, as a Christian school, that all costs will be handled in a wise way. However, it is not feasible for our school to raise tuition to meet these needs. After carefully researching the giving of our community, we feel it is not possible to raise tuition any more for these additional expenses. Many of our families are making huge sacrifices for their children to attend SCS for a Christian education. We want to keep it as affordable as possible, but with the economy as it is today, this is a difficult task. Raising tuition for the parents to absorb these costs is not a viable option for us. We are asking that the Department of Health look at options to assist the private schools rather than increasing tuition.

Thank-you

If you have any questions please call or e-mail anytime.

Sincerely,

Del Dykstra
 Superintendent of Sunnyside Christian School
 509-837-3044



EVERETT CHRISTIAN SCHOOL

"INVEST NOW FOR THEIR FUTURE"

WASHINGTON STATE BOARD OF HEALTH

Attn: Nancy Bernard

PO Box 47990

Olympia, WA 98504-7990

RECEIVED

SEP 08 2008

WA STATE BOARD OF HEALTH

Everett Christian School

Matt Kamps, Principal

2221 Cedar St.

Everett, WA 98201

September 4, 2008

Dear Nancy,

I am writing in regards to the proposed rules for School Environmental Health and Safety. I am unable to attend the hearing in Olympia on September 10, so please accept my comments and concerns in writing.

Everett Christian School is a K-8 private religious school of about 80 children on average. We have been around since 1926. We greatly value our students' health and safety, and strive to make as many improvements as our budget allows. I agree that our students' health and safety is a very important issue, and one that has great effects on achievement and student well-being while at school.

I agree with many of the guidelines that are proposed, but the cost of these improvements could very well put us under. We are always raising the cost of tuition to match the cost of living increases, and if we raise tuition too much, parents will turn away, and we will have to close our doors. As stated in the Preliminary Small Business Economic Impact Statement, "the department assumes that private schools will meet the intent of these rules in the least costly manner... the department assumes that any additional costs incurred by private schools will be passed on to parents via increased tuition rates. Our tuition was raised by \$94 per student from last year. If we have to implement the changes that are required by this rule proposal, according to the figures on the Economic Impact Statement, we would have to raise tuition an additional \$297.18 per student for start up costs, and additional annual increases of \$113.03 for ongoing costs of operation and maintenance. This amounts to an initial tuition increase of over 7% the first year, and 3% per year for ongoing costs. With these types of increases in addition to our normal tuition increases, it is not feasible to implement these worthy health and environmental standards as they are written.

Please consider the impact these new rules will have on small private schools in Washington and find ways for us to make our schools safer and healthier that is more cost effective.

Thank you for hearing us and giving us the opportunity to voice the concerns of our school.

Sincerely,

Matt Kamps

Principal

Everett Christian School

2221 Cedar Street • Everett, WA 98201 • Phone 425-259-3213 • Fax 425-259-0721

Email admin@everettchristian.org • Website www.everettchristian.org



1101 West College Avenue
Spokane, WA 99201-2095

509.324.1500 | TEL
509.324.1464 | TDD
www.SRHD.org

September 8, 2008

Ned Therien
Health Policy Analyst
WA State Board of Health
P.O. Box 47990
Olympia, WA 98504

Re: Comments, Final Draft, Chapter 246-366A WAC

Dear Mr. Therien:

On August 27, 2008 David Swink, Environmental Public Health Director, Spokane Regional Health District, testified before the WA State Board of Health. His testimony consisted of our general comments regarding this draft of the school rule. In his testimony Mr. Swink stated that our technical comments would be forthcoming. Attached are those comments.

Please do not hesitate to contact me at (509) 324-1570 if you have questions or need clarification regarding our comments.

Sincerely,

ENVIRONMENTAL PUBLIC HEALTH

A handwritten signature in cursive script, reading "Juliana G. Awbrey".

Juliana G. Awbrey, R.S.
School Program Manager

Encl.

c: Nancy Bernard, School Health and Safety Program Manager, DOH
Mark Soltman, Local Health Support Section Manager, DOH

JA/lh

Spokane Regional Health District – School Program

Draft - Primary and Secondary Schools WAC 246-366A - Comments		
"Applicability"		
WAC Section	Text	Comment
246-366A-005(1)	"These rules apply to all...school facilitieskindergarten through twelfth grade, and preschools that are part of schools."	See our comment regarding the definition of "school facilities". Previous comment on Draft 2: The Washington State Dept. of Early Learning already has a mandate and jurisdictional authority for preschools and daycare facilities. In keeping with recommendations from the Board's EH Committee, we suggest preschools be removed from this regulation in order to avoid conflict and duplication of service.
246-366-005(1)(a)	"...except: Private residences used for home-based instruction..."	Is the intent that LHI's continue to inspect home-school centers, where home-schooled students gather and parents share the teaching responsibilities?
"Definitions"		
WAC Section	Text	Comment
246-366A-010(14)	"Faucet means...and can discharge both hot and cold water"	Some schools have separate faucets for hot and for cold water. Since the water quality monitoring section refers to faucets several times, it may be helpful to refine the definition.
246-366A-010(29)	"School facility means school-owned or leased buildings and grounds..."	This definition effectively exempts all Catholic Diocese schools (and likely some private schools) in our county from these regulations. In Spokane, the local church is the legal entity that owns the property and school building. The schools are a part of the church mission and do not own or lease any of the buildings or grounds. Per our conversation with our local Catholic Diocese School Superintendent, in is our impression that this is true for many of the Catholic schools throughout the state. Recommendation - change the definition to "school facility means buildings or* grounds intended for student use....." *"buildings or grounds" is important so off-site play fields without buildings are not exempt from the rule.
"Site Assessment, Review and Approval"		
WAC Section	Text	Comment
246-366A-	Converting an existing structure for primary	This is extremely cost-prohibitive for a small private

Spokane Regional Health District – School Program

030(1)(b) <u>A full site assessment:</u>	use as a school facility.	school, e.g., converting a house into a Montessori plus kindergarten, and may not always be warranted. We recommend moving this item to section (2) to allow for flexibility.
246-366A-030(5)(a) <u>The local health officer shall:</u>	"Conduct an inspection of the proposed site"	In some cases, e.g., installation of a portable classroom, a site visit may not be necessary, and would only increase LHJ and school costs. This should be discretionary.
246-366A-030(5)(d) <u>The local health officer shall:</u>	"For site assessments according to subsection (2)...provide written approval or describe site deficiencies needing mitigation to obtain approval"	There may be a rare occasion when an LHJ has to deny a school project, e.g., a proposed addition when the site cannot accommodate the required on-site sewage disposal system. Section (5)(c) should apply to both sections (1) and (2), or (5)(d) should be reworded to include LHJ denial of the project as an option.
246-366A-030(6)	"If school officials notified the local health officer prior to September 1, 2010, that construction is planned ..."	This is too ambiguous. It should be written notification, with stated timelines included. Is there no end-date? Some school districts have 20-year plans. Is it the intent that LHJ's can be notified of those projects and they will be exempt from revised site review requirements?

"Construction Project Review"

WAC Section	Text	Comment
246-366A-040(1)(c) <u>Subject to review:</u>	"Addition to or alteration of an existing school facility consisting of more than five thousand square feet of floor area or having a value of more than ten percent of the total replacement value of the school facility"	<ul style="list-style-type: none"> • Grammar – As written, it appears it is the school facility with more than five thousand sq ft, not the addition/alteration. • More than 10% is inequitable, and adds cost to the school for an appraisal. Why is this included? • There is a gap in this section. LHJ's do not need to review all projects; however, there needs to be a requirement for schools to <i>notify</i> LHJ's of lighting upgrades, ventilation modifications, etc. The dialogue would ensure that schools would design the systems to code, rather than find out later at a routine inspection that something was out of compliance. This would be a cost savings to schools.

"Heating, Ventilation and Air Conditioning – Operation and Maintenance Requirements"

WAC Section	Text	Comment
246-366A-095(2)(a) and (2)(b)	Both sections reference chapter 51-52 WAC	We understand why this code is referenced. Is there a way to reference certain sections, such as Table 403.3, in order to make this more user-friendly? Can appendices be added to the rule and the appropriate sections included?

Spokane Regional Health District – School Program

246-366A-095(2)(a) and (2)(b)	"For school facilities constructed under a building permit...."	Portable classrooms are not constructed under a building permit, but rather are approved by L&I. The rule as currently worded does not apply to portables. Section (2)(a) and (b) need rewording so portables are included.
246-366A-095(2)(b)	"...strive to provide outdoor air consistent with chapter 51-52 WAC. Except where indoor air quality problems have been identified..."	What is the point? What does this say? What is the requirement where indoor air quality problems have been identified?
"Restrooms and Showers – Operation and Maintenance"		
WAC Section	Text	Comment
246-366A-125(1)(b) <u>Provide in each restroom:</u>	"Single service handwashing soap at each sink"	We recommend "at" be changed to "for" in order to allow shared soap dispensers located between sinks.
"Water Quality Monitoring for Lead/Copper"		
WAC Section	Text	Comment
246-366A-130 246-366A-135	Water Quality Monitoring for Lead and Water Quality Monitoring for Copper	Previous Comment on Draft 2: Water testing of this nature may be very burdensome and expensive for most schools. It would likely cause funding to be diverted away from essential health and safety issues such as chemical disposal, expensive mold mitigation, laboratory safety, playground maintenance, shop safety, and ventilation improvements. While we support the provision of safe drinking water as a basic public health function, we have not observed that an adequate risk assessment has been completed in order to document the need for statewide drinking water testing to the extent currently required in this draft.
246-366A-130(2)(b)(i)	"Make sure cold water is the last to run through the fixture to be tested"	How does this pertain to automatic mixing faucets with tempered water?
246-366A-130(3)(a) & (b)	Preschools	Some preschools are located in high schools or in completely separate buildings. The monitoring timelines for preschools are not clearly stated.
246-366A-135	Water quality monitoring – copper	Preschools are not addressed in this section.

From: Greg Lee [Lee4311@comcast.net]
Sent: Monday, September 08, 2008 12:04 PM
To: Therien, Ned (DOH)
Subject: School Health and Safety Rules-Statement of Support
Attachments: SBE Final Rengrant Rpt.doc; 60 Maintenance and Operation.doc

September 8, 2008

Mr. Ned Therien, RS
Board of Health
PO Box 47990
Olympia, Washington 98504-7990

RE: School Health and Safety Rules—Statement of Support

The Board of Health (BOH) meets on Wednesday, September 10th to take public testimony and consider final action, or delay, on the new school health and safety rules. I am unable to attend because I'll be out of town. But I want the board to know that these proposed rules and the contentiousness surrounding them offer the best opportunity yet to revise school finance in a way that will support the building services (maintenance, operations, etc.) in our public schools so that safe and healthy schools becomes a sustainable practice. This is the "enabling crisis" that opens the door to legislative action to solve the problem of funding the maintenance and operations of our public school facilities in a safe, healthy, and sustainable manner once and for all.

In short, we need to 1) create a **categorically funded program** based on appropriate drivers for the building services (square footage, age, condition) and get them out of the schools' general fund; 2) allow or require the establishment of some kind of reserve fund at the local level to deal with planned future system replacements; and 3) continue to fund, at a greater level, the small repair grant program for system repairs and renovations for health and safety purposes—as originally intended.

I see from the associated materials on-line that the House and Senate have proposed a delay until the Joint Legislative Task Force on Basic Education Finance completes its study on the funding structure of our K-12 schools in December 2008. I have not followed their work but in the past the issue of school maintenance and operations was always left out of the study and discussion. I've urged SPI and the school associations to get this issue (categorical funding) on the agenda of the various school finance study groups for many years but it never happened. I don't know if this has gone anywhere in the current task force work but if not then it needs to get started in earnest. It's not rocket science and it would not de-rail the study at any point in its critical path to December completion. Perhaps this board action will push the matter forward.

I'm not sure if final adoption or delay of the new school health and safety rule is the wisest choice on September 10th. But I am more than certain that it creates the situation that proponents of school facility preservation are looking for to get the ball rolling on the only true

9/8/2008

solution to adequate and secure funding of the building services (maintenance, operations, etc.) in our local school district budgets—categorical funding. If that happened then rules such as these would be viewed as an asset instead of a liability to the school establishment because the funding formulae could be adjusted to support them. Without that compliance is doubtful and resistance can be expected.

I am asking the board to use its power and influence to persuade the joint legislative task force on basic education finance to include the establishment of a categorically funded program to support the building services for K-12 facilities in their current study. Building services need to be withdrawn from the schools' general fund and taken off the basic education drivers. There is no other way. If this gets neglected again then it will be business as usual and the schools will not respond to the health and safety needs of close to one million vulnerable aged students spending at least 180 days per year for 12 or more years of their lives in these public facilities. The public health drawbacks of this are obvious.

I am also asking the board to support a larger biennial appropriation, perhaps as much as \$10 million, for the small repair grant program to help schools fund the repairs and renovations needed to resolve the many health and safety issues that are prevalent in our public schools today. I have witnessed those up close and personal as the manager of the federally funded Rengrant program (2001-2003) which was the predecessor of the state funded small repair grant program. The Rengrant program was conducted with the full cooperation of the DOH Environmental Health Section and the K-12 Health and Safety Officer.

I have attached two documents to this message. One is a summary of the Rengrant program. It explains the fiscal hardship of funding minor repairs and renovations (for health and safety or any other purpose) at the local level. The other is a listing of the building services (the 97-60s) that are locked in the general fund and therefore vulnerable to any other instructional need. These are the activities that need the protection of categorical funding that will produce the results desired in the new school health and safety rules. Trust me on this: **THERE IS NO OTHER WAY.**

Please enter this letter and the attached documents in the official record. If you have any questions please call me.

Sincerely,

Greg Lee, Ret.
4311 60th Ave. S.W.
Olympia, WA 98512
(360) 943-3276

Attachments:

9/8/2008

Federal Emergency School Repair and Renovation Grants (Rengrants) Filling a Niche

Washington State has been a major participant in providing capital outlay to equalize district expenditures for school construction and major modernization or building replacement for many decades. However, this participation is not universal and unlimited. Projects must be approved by the state board of education and the local share (match) must be secured and spent prior to gaining access to state funds. Costs for repairs and renovations, unless included in a major modernization, are considered "minor works" and are not shared (equalized) by the state under WAC 180-33-015 (3)(b). They are below the project cost threshold (40%) required to qualify for state assistance under WAC 180-33-035.¹ Minor works are exclusively a local financial burden.

But minor works do not fare well in the district budget process. The competition for scarce resources at the local level is fierce. Minor works and major repairs and renovations of building systems and components are commonly deferred as a means of balancing the annual district operating budget. The result of that practice is inevitable—accelerated deterioration. And as building systems and components deteriorate, they eventually transform into health and safety risks, building deficiencies, or code violations. Over time, districts accumulate an extensive list of minor works (repair and renovation) needs that exceed the local fiscal capacity.

Minor works projects that exceed annual operating budget capacity can only be done if they are included in an operating or capital levy. There they face more barriers. Debt limits are one. Plus, local districts have disparities in wealth that result in unequal access to revenue (voted debt) to pay for repairs and renovations. Further, local voted debt is contingent upon a super-majority (60%) vote and validation requirements. Again, the local effort required to provide funds for repair and renovation purposes is not equalized by the state because the costs are too small to qualify as "major structural change" under RCW 28A.525.030 and the above state board of education rules.² Without operating budget or levy support the projects await a bond issue (long-term debt financing) that is subject to the exact same financial and electoral barriers.

It has not been demonstrated that the current school financial system is capable of supporting urgent repair and renovation needs (minor works) at the district level. In fact, the Rengrant experience shows quite the opposite—urgent health and safety risks and code deficiencies have gone unaddressed, sometimes for decades. The project needs identified and documented under the Rengrant program are not the problem; they are the result of the problem—a flaw in school finance policy.³ Needed projects simply don't get done. The financial resources required are obviously beyond the fiscal capacity of the local school districts. It is clear that repair and

¹ Washington State uses an area cost allowance (per square foot) to calculate the maximum allowable state share of the project cost. The project cost must be at least 40% of the area cost allowance to qualify for state assistance. If the area cost allowance is \$110.32/SF, then the project must meet or exceed \$44.13/SF. Minor works don't qualify.

² Without equalization, the property tax burden on the patrons of a small, property poor district is greater than the burden on the patrons of a larger, property rich district for the same \$100,000 project. See tax discussion on page three. The financial need is the same, but the tax burden is not. This disparity is exaggerated as project costs rise until they finally reach the level where the building qualifies for state assistance (equalization) under WAC 180-33-035. For FY 2003 that level was $\$110.32 \times 40\% = \$44.13/\text{square foot}$. The Rengrant projects came in at an average of \$2.53/square foot. State assistance is a distant dream.

³ See Financing School Facilities, A report prepared by ASBO International's Facilities Project Team, Association of School Business Officials International, 1999, 16p.

renovation funds from another source are needed to fund "minor works" for emergency health and safety, fire code compliance, accessibility, and abatement purposes in our public schools.

The potential health and safety and/or code compliance risk in a system the size and age of Washington's common school system is enormous. The system consists of approximately 1,915 schools in 296 school districts containing an estimated 123.75 million square feet of instructional space. There are 43,544 regular and 3,230 handicapped teaching stations. Many thousands of individual buildings, building systems, sub-systems, and components complete the picture. There are another estimated 4,445 portable structures used for instruction.⁴

Age, design, construction quality, and maintenance reinvestment are the major drivers of building condition and repair and renovation needs. Almost 20.2 million square feet (16.3%) of Washington's schools were built before 1950. Another 44.5 million square feet (36%) were built during the 1950s and 1960s. Cumulatively, 89.4 million square feet (72%) of Washington's schools were built before 1980.⁵ The aggregate maintenance reinvestment in the K-12 inventory is only half the minimum recommended level of two percent of the building replacement cost per year. The state supported school modernization program has had a positive effect on the learning environment in aging school facilities, but only supports major modernization—not repairs and renovations (minor works) of the nature, scope, and cost addressed under the Rengrant program.

Federal funds (\$10.35 million) were made available (P.L. 106-554) in 2001 for emergency school repair or renovation projects necessary to ensure the health and safety of students and staff. The federal legislation provided examples of the types of projects that fall into the health and safety category. These include repairing, replacing or installing roofs, electrical wiring, plumbing systems, sewage systems, heating, ventilation, or air conditioning systems. Districts could also use grant funds to bring schools into compliance with fire and safety codes, to make school facilities accessible in order to comply with the Americans with Disabilities Act (ADA) of 1990 or section 504 of the Rehabilitation Act of 1973, and for asbestos abatement or removal.

Districts were asked to follow a rigorous process to determine their emergency repair and renovation needs in the above categories. Step one was to identify schools with the greatest risks using the OSPI/DOH Health and Safety Guide, the School Indoor Air Quality Best Management Practices Manual, and other useful tools made available at the Rengrant program website. Step two was to analyze those buildings using a building condition evaluation process structured specifically for the Rengrant program. Building deficiencies were identified and projects were proposed to mitigate the health and safety risks and code deficiencies. Districts prioritized these projects, estimated their costs, and completed the Rengrant application. All the supporting data (electronic) accompanied the application and are currently housed in the Rengrant database.

The Rengrant applications explained the risks, deficiencies, and projects in narrative form. The descriptions were backed up by data from the building evaluation forms. Districts requested grants to fund a variety of facility risks and challenges. Among them were toxic mold conditions from water intrusion, HVAC and roofing failures, fire alarm and suppression systems that no

⁴ The data in this paragraph were yielded by the SBE inventory project conducted from January to June 2000. See OSPI Bulletin No. 13-00, dated January 31, 2000.

⁵ Ibid

longer worked or were incomplete, and unsafe or inadequate classroom situations due to degraded environmental equipment.

The usual environmental health issues like poor indoor air quality, inadequate temperature control, substandard lighting, and noise were identified and documented too. The all too common cause was the lack of maintenance reinvestment, which itself is a victim of a flawed school finance policy. Recent research is developing a closer association between environmental health issues and academic achievement.⁶ The short and long-term health risk to a vulnerable population (age 5-17) is obvious. There were also many lingering accessibility and asbestos abatement or removal needs. Any one of these issues may result in school closure as demonstrated by recent experience in eastern, central, and western Washington school districts. They may drive community complaints and labor-management disputes as well.

Districts selected their Rengrant projects to mitigate the identified risks. The relationships between the risks and the projects had to be described to the satisfaction of a highly qualified multi-disciplinary state review panel. The most requested "top priority" projects were heating and ventilating repairs and renovations. That was followed closely by fire alarm systems and then asbestos abatement projects. Roofs and accessibility (ADA) projects were next. Project breakdown tables that identify the types and numbers of projects requested are attached.

In summary, 128 of 296 districts (43%) completed the Rengrant process. A total of 218 of an estimated 1,915 school facilities (11.3%) were examined and evaluated. A total of 262 individual buildings were examined comprising over 10.26 million (8.3%) square feet in a K-12 inventory of an estimated 123.75 million total square feet. Almost 10,000 building components and over 20,000 assemblies were evaluated. A total of 587 emergency school repair and renovation projects were submitted for funding. Over \$24.6 million (\$2.40/SF) was requested for 587 projects. All of these data are now housed in the Rengrant database.

Unfortunately, funds were only available to provide grants to 99 of the 128 competing districts. Only about 25% of the 587 projects requested were funded because the review panel refused to make awards beyond the \$100,000 grant limit⁷ in an effort to spread the money as far as possible. The goal was to serve the maximum number of districts, schools, students and staff possible with the available funds. The grant limit and elimination of a local match requirement equalized local access to revenue for repairs and renovations at the \$100,000 level. The bulk of the districts receiving money were in rural and agricultural communities.

In many (25) of those communities the property tax rate needed to raise \$100,000 was over \$1.00 per each \$1,000 of assessed valuation. The average tax rate needed for the 99 Rengrant districts was \$0.91/\$1,000. The median was \$0.44/\$1,000. The lowest rate was \$0.0083/\$1,000. The tax bill for the owner of a \$100,000 home there would be \$0.83. The highest tax rate of any district needed to raise \$100,000 was \$8.41/\$1,000. The tax bill for the owner of a \$100,000 home there would be \$841.00. And the cost of emergency repairs and renovations in most districts is almost

⁶ See Do School Facilities Affect Academic Outcomes? Mark Schneider, National Clearinghouse for Educational Facilities, November 2002, 24p.

⁷ Districts at or below 10,000 students were allowed a grant limit of \$100,000. Districts above 10,000 students generated a higher grant limit. Ten of the 99 grants were for over \$100,000.

always well over \$100,000, which only adds to the tax bill. As stated earlier, among other disadvantages, minor works costs are perceived to be a threat to levy passage for program or instructional needs, and all too often are excluded. It's a major dilemma for school budgeters. It's no wonder that minor works projects and costs pile up. The system seems to work against it.

If this is a valid random sample, and if the projects submitted are truly "emergency" in nature, then the total projected statewide need for emergency repairs and renovations may equal almost \$300 million.⁸ We do not yet know the full scope of the problem with any precision. But we do know that this issue is significant when we review the health and safety and ADA scores yielded by the Rengrant building evaluation tool.

In addition to measuring building condition, the Rengrant building evaluation tool evaluates health and safety conditions that jeopardize occupancy, hinder emergency notification and evacuation, and systems to control the spread of fire. An analysis of those data suggests that school building health and safety is a very serious problem for Washington's public schools. There is at least one major life safety issue, several conditions of concern, or many compromised components in 62% of buildings 16 years of age and older. And the problems only worsen in severity and breadth with age. Building age is also a significant factor in ADA compliance.

The federal Rengrant program filled a unique and much needed niche for capital outlay in Washington's schools by fully funding urgent health and safety and/or code compliance projects. These projects (minor works) normally dwell in "no-man's-land" as they are beyond the fiscal capacity of the local district and are not eligible for state assistance. They are subject to three major barriers: the inability to compete for local operating funds, the inability to gain (or even be considered for) bond or levy support, and the inability to qualify for state financial assistance. You might call this the "triple whammy." School facilities in 99 districts now have a better chance of supporting the academic achievement levels aspired to in the current education reform movement due to the Rengrant program. But there is much more to do.

The Rengrant experience has documented (at the state level) a compelling health, safety, and educational issue that has been building at the local level for some time. It is a new opportunity for government action. Compulsory attendance and equal educational opportunity requirements demand elevation of this issue to the policy level. School children are entitled to safe, healthy, and code compliant facilities. But the current system does not deliver or sustain that in a general and uniform manner. Major education policy players like the state board of education and the superintendent of public instruction will shape the ultimate response to this issue. Health and safety players and other interests will round out the field. There are many options that could be pursued at several different levels.⁹ This dialogue needs to begin in earnest very soon.

This report concludes with the following quotations. The source of the first is unknown. The second is from the Strayer Report in 1946. The Strayer Report was the basis of a major reform effort in Washington's K-12 school system in 1947.

⁸ Computed as follows: Multiply \$2.40/SF x 123.75 million SF = \$297 million.

⁹ See Financing School Facilities, ASBO International, 1999

"The school building is a teaching and learning resource composed of physical space, objects, furniture, and their arrangement. It is order and disorder, light, color, heat, ventilation, and sound forming a complex, intangible presence to its occupants. It bombards pupils with physical and emotional stimuli. It communicates a message of what is expected to happen in that particular place. The school building helps structure the formal and informal relationships between teacher and learner and between learner and learner. It is the shelter - the life support system - that defines the learner's physical existence for a period of time." --Unknown

"The school plant is a concrete, objective expression of the educational and social philosophy of the community in which it stands. An alert, informed observer with a pass key walking around and through empty school buildings on a Saturday morning can get a more complete and reliable picture of the educational philosophy of the professional staff, the board of education, and the community in a few hours than he could by days of searching through records, reports, bulletins, and publications." --Strayer, 1946

Washington State is in the midst of another education reform movement now. School facilities must play their proper role in support of that movement. School facilities that are incapable of doing that will not support the school program in the most efficient and effective manner. And because of Article IX of Washington's unique Constitution, where public education is declared to be the paramount duty of the State, that is an unflattering and unacceptable reflection on the State and undermines its new academic achievement expectations.

60 Maintenance and Operation

This series consists of activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in an efficient working condition. Expenditures identified with this series must be charged to Program 97 Districtwide Support, except:

- Expenditures identifiable with federal programs that should be charged directly or through the use of debit and credit transfer objects.
- Expenditures chargeable to a state program for which approval has been obtained for specific direct expenditures.
- Expenditures chargeable directly to Program 89 Other Community Services (Activities 63, 65, 66, and 68 only).
- Expenditures chargeable directly to Program 99 Pupil Transportation (Activities 62, 63, 64, and 66 only).
- Expenditures for Pupil Management and Safety are chargeable directly to Activity 25.

Activity 61 Supervision

Services of supervisory personnel and their secretarial and clerical assistants.

Activity 62 Grounds Maintenance

Included are expenditures for routine care of grounds, such as raking, hoeing, watering, cutting and protecting lawns, transplanting, trimming, and caring for flower beds. Include all related supplies and materials.

Maintenance includes expenditures of maintaining grounds and equipment. Include repairing or replacing walks, fences, tennis courts, playground surfaces, lawn sprinkling systems, outside flagpoles, driveways, and sewers.

Activity 63 Operation of Buildings

Included are expenditures for custodians and heating engineers who maintain buildings. Include expenditures for all small equipment items and consumable supplies used by operating personnel.

In addition, include rental expenditures for land and buildings for purposes other than pupil transportation. Equipment rentals are charged to the using activity and appropriate program.

Activity 64 Maintenance

Included are expenditures for maintaining buildings and equipment through repair and upkeep. Services include, but are not limited to, repainting, redecorating, resurfacing, refinishing, reshingling, and repairing of structures, foundations,

doors, windows, hardware, gutters, downspouts, window glass, window shades, stage curtains, drapes and built-in equipment such as lockers, cabinets, venetian blinds, swimming pool filtration equipment, soap and towel dispensers, bulletin boards, and door checks.

Include expenditures for moving portable structures and maintenance of service systems, including the repair and replacement of heating systems, electric lighting systems, bells, clocks, intercommunication systems, sewers, fire safety systems, plumbing systems, and elevators.

When the fabrication of equipment and furnishings by school employees is an appreciable expenditure, expenditures should be transferred to the using activity and appropriate program.

Contractual repair and maintenance of equipment, including audio-visual and refrigeration equipment, should be charged to the using activity and the appropriate program. Transfer in-house repair expenditures to the using program/activity by means of debit and credit transfer objects.

Do not include maintenance of buildings and equipment for Program 99 Pupil Transportation.

Activity 65 Utilities

Include expenditures for water, electricity, sewage, gas, coal, wood, oil, sanitary, recycling, basic voice telecommunications services, and other service assessments or charges. Telecommunications expenditures that are part of the instructional program, such as video or data transmission, may be charged directly to the appropriate activity or may be transferred using debit and credit transfer objects of expenditures.

Activity 67 Building and Property Security

Include services designed to protect buildings and other property of the district from unlawful entry, vandalism, and burglary. Include the expenditures for security supervision, security patrols, and intrusion devices. Include maintenance of security devices and telephone line charges as well as monitoring expenditures. Also include expenditures for fire protection services. Charge services related to pupil management and safety to Activity 25.

Activity 68 Insurance

Include provision for property, employee, liability insurance, and fidelity bonds in this activity. Do not include pupil transportation insurance that is charged to Activity 56 Insurance.

Other Helpful State Accounting Manual Definitions

Repairs

Expenditures for **repairs to building structures that do not add to existing facilities** are recorded under the General Fund Activity 64 Maintenance. As a general guide concerning repairs to building structures, if changes of partitions, roof structure, or walls are not involved, the expenditures are recorded under the General Fund Activity 64 Maintenance; if such changes are involved, the expenditures are involved, the expenditures are recorded under the Capital Projects Fund as remodeling.

Renovations

The Capital Projects Fund records **major renovations consisting of the replacement of roofing, floor covering, or service systems when periodic repairs are no longer economical. Replacement is the replacement of a unit of equipment or fixture with another unit or fixture that serves the same purpose in the same way and has approximately the same expected lifetime as the replaced unit when installed.** Normal repairs should be charged to the General Fund Activity 64 Maintenance.

From: Jean Orvis [mailto:jorvis@seattleacademy.org]
Sent: Monday, September 08, 2008 4:25 PM
To: Bernard, Nancy (DOH)
Cc: jmorrison@wfis.org
Subject: Proposed new DOH rules

Dear Ms. Bernard,

I will be unable to attend the hearing in Olympia on Wednesday regarding the proposed changes in Chapter 246-366A WAC. Our facilities manager, Loyal Hanrahan, will attend in my stead. Attached please find a letter that expresses my views on these proposed changes.

Thank you for your attention,

Jean Orvis

Jean Orvis, Director
Seattle Academy
1201 East Union Street
Seattle, WA 98122
(206) 323-6600
jorvis@seattleacademy.org

September 8, 2008

Dear Ms. Bernard,

As the Director of Seattle Academy, a small college-preparatory independent school serving 590 students in grades 6-12, I am writing you again today to express my concerns about the proposed changes in Chapter 246-366A WAC.

First of all, I do wish to express my appreciation to the DOH for listening to the concerns expressed by schools regarding the earlier draft of the document and for some of the changes made to lighten the onerous nature of the implementation of these new rules. That said, I continue to have serious concerns.

Government officials, policy makers, educators, and leaders in every field of endeavor all face a similar dilemma: how does one avoid jumping on proposals that "look good" and "sound good" and yet run the risk of serious future ramifications? Health and safety issues are, indeed, the equivalent of motherhood and apple pie. How can one successfully challenge *any* effort to improve the health and safety of our children and not sound like Attila The Hun? Yet, as in all things, I believe that improvements that "look good" and "sound good" must be carefully examined to avoid unintended consequences.

I believe that the first unintended consequence of these rules will be a shift in school resources from program and instruction to compliance and inspection. Has any study been completed that scientifically assesses the probability for potential harm to students if these expensive rules are *not* enacted? If one assumes that the average student spends approximately seven hours per day, five days per week, ten months per year, and an average of seven years in a given school, and that the average lifespan is 75 years, then a student will spend approximately 1% of his or her lifetime in that school. However, assuming that same child pursues an education through four years of college, the seven years in that building represent nearly 44% of that child's education.

In his recent book, The Global Achievement Gap: Why Even Our Best Schools Don't Teach the New Survival Skills Our Children Need—and What We Can Do About It, Professor Tony Wagner of the Harvard Graduate School of Education argues that while the conventional view remains true that we have an achievement gap between the education middle class children receive compared to that provided to poor and minority children, a more pernicious gap exists between what even our best suburban, urban, and rural schools are teaching and testing, compared to what all students will need to succeed as learners, workers, and citizens in today's global economy. If we are truly committed to the long-term well being of our children, then we must think very carefully about where every dollar of educational money is spent. Thousands of dollars expended in start-up costs and on annual ongoing operation and maintenance costs are thousands of dollars diverted from program, instruction, and faculty development. The millions of dollars spent in increased construction costs are millions of dollars that are not spent on state-of-the-art science laboratories or technology upgrades.

The "Preliminary Small Business Economic Impact Statement" clearly states that these rules will have a disproportionate impact on small schools. Small private/independent schools serve an increasing percentage of the state's population (about 30% of school-age children in Seattle alone), and in doing so serve the public good by educating students not well served in the public schools.

The "Preliminary Small Business Impact Statement" suggests that as "small businesses," private schools can just raise tuition. Of course, it is easy to raise tuition if you are not the one going to the board or to the parent body; and every up-tick in tuition will force some parent to forgo the education, and if enough do, the school must cut programs and/or faculty and/or go out of business.

While the study addresses the impact on small private schools, it appears that the financial impact on public schools is ignored. In a recent interview, Joel Trachtenberg, President Emeritus of George Washington University, was directly asked about the steps schools must take to prepare our children for college and life in a global economy. He commented that there are many fine public and private schools in this country that are doing a world class job of educating students, but he noted that the vast majority of schools in this nation are woefully under-funded because public education is tied to the tax base. He stated that with an ageing population, it is less likely rather than more likely that new taxes for schools will be enacted. With an ageing population, a declining economy, and ever-increasing demands for each tax dollar, how does one justify to tax payers the diversion of significant funds from direct instruction to increased regulatory requirements, particularly if substantive evidence is lacking regarding the efficacy of those requirements and if enactment of these rules negatively impacts our primary mission, namely educating our students for an increasingly complex world?

I suggest that the DOH further study the necessity of these rules, the inherent trade-offs, and their potential impact on the *overall* welfare of our children. If it is then deemed necessary to implement these rules for the overall health and well being of kids, I suggest that a much stronger case must be made to those who will be forced to pay higher tuitions and to taxpayers who will be asked to fund these changes.

Sincerely,

Jean Orvis
Director
Seattle Academy of Arts and Sciences



Lighthouse Christian School

3008 - 36th St. NW, Gig Harbor, WA 98335

Phone 253-858-5962 • Fax 253-858-5962 • www.lcschool.org

Department of Health
Olympia, WA
September 8, 2008

To Whom It May Concern:

I am writing to respond to the proposed new Department of Health - School Health and Safety Rules which will be considered at a final public hearing September 10, 2008.

I appreciate very much the committee's desire to provide for the safety of our students. Certainly we share that priority with you. Like you, we are committed to healthy environments for our children, staff and parents.

I believe the regulations are balanced, given the amount of public attention this issue has raised. However, I am very concerned about the costs to private schools and the timing to implement the regulations.

I would encourage consideration of the state's obligation to fund **both** public and private schools on issues of environmental health, as both care for the children of this state. Approval of new regulations must not require private schools to comply without a mandate of public funding as well. Just as public schools will struggle to comply with the regulations and require public funding, so will private schools. Public funds should be available to private schools as well as public schools.

Thank you for your consideration of these thoughts. Private schools serve the students of our state well and the impact to those schools must be weighed carefully.

Sincerely,

Debbie Schindler
Administrator

From: Glenna Green [mailto:greenbns@cleelum.com]
Sent: Monday, September 08, 2008 11:33 PM
To: McLaughlin, Craig D (DOH); Kathy O'Toole; Mel Tonasket; McLaughlin, Craig D (DOH); Mark Cooper; Therien, Ned (DOH); Thelma Simon; Soltman, Mark (DOH); JLittel@NWCarpenters.org; Glenna Green
Subject: Public comments on wac 246.doc/James Green

Please see attachment for my comments on WAC 246.doc and include in all board member packets for the meeting on Wednesday. Thank you, James Green

Public comments on WAC 246-346 rule by JAMES W. GREEN

I have been involved in the process of this rule revision from conception and while I believe that it is very lacking in some vital areas, it does provide and represent a palatable compromise by all parties affected and represented during the process. The one exception, or perhaps oversight, is the statutory authority reference, such as RCW 43.20.050 that was in the old law. This needs to be added back in.

After re-reading the info, comments, testimonials, and such, it seems that a reminder that these are merely minimum standards to protect children in schools that they are required by law to be in! There has intentionally been room left for local control to do more and also accommodations for variances. Again, the key word is minimum standard!! While sympathetic to the funding plights, consider that much of the law is the same as it has been for 30yrs. With exception of clarity, which has been added, one should be able to assume cost neutral on those items as they were in the law for 30 some yrs., a minimum standard, and surely followed!!!! "To protect the children of the state of Washington."

To the legislators comments, I would say that first come the recommendation of the minimum standard law [after all the public comments, panels, meetings, forums, and, other] then as legislators do, they will fund it somehow, as they are quite crafty at coming up with a way for something so critical as protecting the children of WA. With a mere minimum standard, also of note here is the fact that implementation has already been phased in to accommodate the new expense of the law over a period, so the remainder of the law that has only been clarified for interpretation should go into effect immediately, as it is already law. The rest I am sure will be fully funded! Again, as it is for the children and the children come first!!! I am aware there are several other programs, plans, proposals, etc. by several other organizations which are in some phase of realism but none, I believe, is as thorough and inclusive of stakeholders as the SBOH proposal, and it is their statutory duty to make the recommendation, therefore, the law should come first, then the other entities and their programs should conform to the law. This should also hold true for funding. Fund the minimum standard first, then other programs.

Again this draft represents a great compromise by all and I strongly support your SBOH approval with minor changes mentioned above and full funding by legislature which is the next step of the very long process.



September 8, 2008

Distinguished Members of the
Washington State Board of Health
101 Israel Rd SE
Tumwater, WA 98501

Re: Proposed School Health Rule Revision, Chapter 246-366A

Dear Board Members:

My name is Mary Sue Linville, I am the Director of Risk Management for the Washington Schools Risk Management Pool, which is a self-insured property and liability co-op comprised of 68 Public School Districts, 7 Educational Service Offices and excess-insurer of an additional 31 Districts, in Washington State. We insure all sizes of school districts, from the very large to the very small. I've been honored to serve on the School Rule Development Committee since its inception on behalf of the Washington Association of School Business Officials (WASBO).

I cannot speak specifically to the events that have been reported to you that occurred 5, 7 or 10 years ago in the Seattle School District or at Cle Elum, but I can testify to what has happened these past 5 years in the many schools that we insure, what my staff and I see on a daily basis.

The introduction of the K-12 Health and Safety Guide set a new standard of accountability for school operations. Prior to its development and introduction, many school districts did not know where to find information on the "best standards and practices" for school facilities and operations. This information was segmented and resources were unknown or difficult to find.

Since its introduction, school health and safety continues to improve, each year, based on this focused approach. The content of this guidance document form the backbone for training programs that are regularly provided by school property/liability and worker's compensation insurers, WASBO and WAMOA; and consistency of school inspections preformed by school staff, the insurers and local health inspectors. There has been a concentrated effort by our Risk Pool and the other insurers in Washington State to refer to this document as the prime resource for safe school facilities.

WSRMP continues to take a serious look at all claims involving student injuries at school. Our statistics for the 5 school years, starting with 2002 – 2003 and ending with 2006 – 2007* indicate the following facts:

	2002 – 2003	2003 – 2004	2004 – 2005	2005 – 2006	2006 - 2007
# of Dist/ESD	86	84	82	78	76
# of Student FTE**	458,762	461,227	452,271	433,465	428,920
# of Playground Claims	95	97	92	74	53
# of Science Lab Claims	1	5	3	2	1
# of CTE Shop Claims	8	13	12	11	7

*Statistics for 2007 – 2008 are being compiled but not yet available

**Full Time Equivalency

It is important to note that of the playground claims indicated above, the vast majority of these claims are a result of either students making “contact” with each-other or running into playground equipment; or students “slipping, tripping or falling” somewhere on the playground. Only 1 claim in the past 5 years has been attributed to “playground equipment failure” and the student injury was very minor.

These playground statistics are on a consistent decline, each year for the past 5 years; and are 50% fewer each year than those reported annually prior to 1994, when WSRMP first began to teach school districts how to inspect, repair and supervise playgrounds.

90% of the Science Lab claims reflected above can be attributed to improper instruction and/or improper supervision. The only “lab equipment” related claims are a result of breaking of glass pipits. WSRMP has, twice in the past 7 years, focused on science lab safety; providing incentives for our districts to be in compliance with the Department of Labor and Industries science lab regulations. This emphasis has included requiring Chemical Hygiene Officers; current chemical inventories; proper hazardous waste disposal protocols; emergency response plans; regular inspections and elimination of dangerous and/or unstable chemicals.

Since 1999 we have reduced the numbers of claims relating to shop classes by 50%. Again, this is based on the guidance of the K-12 Health and Safety Guide and continued education and inspections. We focused twice in the past 7 years on shop safety; teaching shop teachers the rules and regulations related to machine guarding and housekeeping. We provide inspection worksheets for each “type of shop” and conduct inspections, along with district staff, to assure compliance and that they understand the essentials of safe shops. These inspection worksheets mirror the K-12 Safety & Health Guide.

I firmly believe that we are not in need of new laws, but better education and a support system aimed to help districts know what constitutes best practices; how to implement these practices; and where to go for help when they need resources and education.

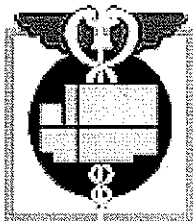
Based on the continued hard work of our school staff; the loss control assistance from their property/liability insurers and the Educational Service Districts that provide self-insured Worker's Compensation loss control support, districts continue to make great improvements in school health and safety. It is measureable.

I recommend serious consideration be given to limiting the addition of new laws; but expanding and updating the K-12 Health and Safety Guide. I also encourage the State Department of Health and the Local Health Departments to work with existing school organizations (WASBO, WAMOA) and insurers in expanding education programs and support of our districts that want to do what is best for students and staff, but need support, help and guidance.

Thank you.

Sincerely,

Mary Sue Linville, ALCM, ARM-P
Director of Risk Management & Operations
Washington Schools Risk Management Pool



Washington State Association of Local Public Health Officials

An Affiliate of
Washington State Association of Counties

September 9, 2008

Treuman Katz, Chair
Washington State Board of Health
P.O. Box 47990
Olympia WA 98504-7990

Dear Mr. Katz:

On behalf of the Washington State Association of Local Public Health Officials (WSALPHO), I am writing about Chapter 246-366A WAC - Primary and Secondary Schools, filed July 23, 2008.

We appreciate the effort the Board, your staff, the Department of Health, and others have spent working on this important issue. Providing a safe and healthy school environment for students in our state is an important public health role. We believe the new rules are an improvement over the current school regulations. If adopted we believe these rules will help protect public health if they can be properly implemented.

The draft rules place significant obligations on local public health jurisdictions. We can only fulfill these obligations if we have sufficient numbers of properly trained and equipped staff; and we can recover the costs associated with the work required by the new rules. Under current economic conditions, few if any health jurisdictions can marshal the resources needed to successfully implement the new rules. We realize it is beyond the authority of the State Board of Health to provide program funding, but we want to make you aware of this very real problem.

We understand that committees from both houses of the state Legislature have asked that you delay action on these rules until they have the opportunity to address their financial impact on schools. We support these requests and will ask these same committees to consider the needs of local public health along with the needs of schools. We ask that the Board consider the needs of local public health as you develop a response to the Legislature's request.

We appreciate that the effective date for the rule is two years after adoption and that many of its requirements are phased in over time. We believe two years is enough time for local health and schools to implement the rules if adequate resources are available. If you delay adoption of the rule, we ask that you adjust the implementation and compliance dates accordingly.

Thank you for considering our concerns. If you have questions or wish to discuss this matter further, please contact Art Starry, WSALPHO Legislative Committee Chair, Thurston County Public Health and Social Services, at (360) 786-5456 or starrya@co.thurston.wa.us.

Sincerely,

Rick Mockler
Chair, Washington State Association of Local Public Health Officials
RM/lp

c Craig McLaughlin
Art Starry

Puget Sound School Coalition

Bethel, Everett, Federal Way, Franklin Pierce, Issaquah, Highline, Lake Washington, Northshore, Orting, Riverview, Snohomish, Snoqualmie Valley, Tahoma, and White River School Districts.

September 9, 2008

Mr. Ned Therien
Washington State Board of Health
101 Israel Road SE
P.O. Box 47990
Olympia, WA 98504-7990
school.rule@doh.wa.gov

Re: Comments regarding WSR 08-15-174: Proposed Amendments to the School Rule for Environmental Health and Safety

Dear Mr. Therien:

On behalf of the Puget Sound School Coalition (the "Coalition"), the Mukilteo, Spokane, and Tacoma School Districts (the "School Districts"), and the Washington Association of Maintenance and Operations Administrators ("WAMOA"), thank you for the opportunity to comment on the State Board of Health's ("Board") Proposed Amendments to the School Rule for Environmental Health and Safety (the "Proposed Rules").

We appreciate the work of the Board members, the Board staff, the Department of Health ("DOH") staff, and the Rules Revision Team in developing and refining the Proposed Rules. The Proposed Rules address a number of questions raised in the Coalition's prior comment letters and provide technical clarification. However, we continue to have significant concerns regarding the potential scope of the Proposed Rules and the associated fiscal impacts on school districts. The Coalition, the School Districts, and WAMOA are submitting the following comments to highlight these concerns.

I. Policy Concerns:

A. The purpose of the Proposed Rules should be specific to "students."

From the outset of the rule review process, we understood that the objective of the Board was to address certain health concerns for students since formalized paths and oversight groups existed for other applicable groups to address their concerns and issues. The version of the Proposed Rules dated June 11, 2008, specifically referenced "students" in the "Introduction and purpose" section. We testified at the June 11, 2008, Board meeting in support of this language. Unfortunately, the word "students" has been deleted from the published version of the Proposed Rules. As drafted, the Proposed Rules appear to try to establish standards for "school facilities" generally, not just for "students." Proposed WAC 246-366A-001. In addition to the broad

September 9, 2008
Page 2

language in the purpose section, some of the Proposed Rules try to establish workplace safety standards for teachers and other staff. For example, Proposed WAC 246-366A-020 requires school officials to "identify, assess, and mitigate or correct environmental health and safety hazards" and to "establish necessary protective procedures, use appropriate controls, and take action to protect or separate those at risk from identified hazards." These requirements may be read to apply broadly and to cover employees. Indeed, Proposed WAC 246-366A-020(1)(c)(iii), Proposed WAC 246-366A-070(4), Proposed WAC 246-366A-366A130(6)(a), and Proposed WAC 246-366A-140(3) expressly reference "school facility staff."

Unfortunately, if the Proposed Rules include the workplace safety language, the Board will place the entire set of regulations at risk. Initially, the Board is not the appropriate State agency to regulate on this issue. As specifically noted in the June 13, 2008, letter from the State Division of Occupational Health and Safety of the Department of Labor & Industries ("L&I") to the Board's Executive Director, L&I has the exclusive authority to regulate faculty and school employee safety and health. Thus, L&I is the only State agency authorized to regulate in this area. Of equal or greater consequence, workplace safety is governed by a comprehensive federal statute named the Occupational Safety and Health Act ("OSHA"). OSHA occupies the field of workplace safety and generally preempts any State attempts to regulate this area. The one exception to this rule of preemption is when State safety and health regulations are submitted and approved under OSHA. Thus, even L&I's regulations must be submitted to the federal government for review and approval. The broad scope of the Proposed Rules will render the Rules subject to challenge under OSHA and may result in the invalidation of the Rules in their entirety.

It appears that the Board has begun to recognize this concern by adding language in Proposed WAC 246-366A-005(4), which recognizes L&I's authority. Unfortunately, this provision does not address the real issues. The question is not whether the Board can usurp L&I authority -- it cannot. The question is whether the Board's attempt to regulate worker safety will render the Proposed Rules void and subject to challenge on preemption grounds. The purpose and applicability of the Proposed Rules (and their inapplicability to worker safety) should be clear from the outset and throughout the document.

For these reasons, we recommend that at a minimum the words "for students" be restored to the end of the purpose section (Proposed WAC 246-366A-001) and that the Proposed Rules clearly state that they apply to students in schools throughout the document.

B. The Board should delay adoption of the Proposed Rules to permit the Legislature the opportunity to address the funding concerns.

As expressed in earlier comment letters and in testimony before the Board, the Coalition, the School Districts, and WAMOA are concerned regarding the fiscal impacts of the Proposed Rules. We reiterate that the Proposed Rules must be fully funded in order to be implemented effectively and equitably across the State. Such additional costs cannot be absorbed by the existing budgets of local school districts. Without the necessary funding, the adoption of the Proposed Rules would require difficult budget cuts affecting critical school functions and would

impact the scope of the school construction projects, including those that the voters have already funded in many communities.

While we appreciate the proposed staggered implementation dates in the Proposed Rules, we urge the Board to delay taking action on the Proposed Rules until a legislative funding package is in place. Based on the estimates prepared by the DOH, and presented by the Board's Executive Director, the operations and maintenance costs to implement the Proposed Rules will be around \$16 to \$20 million per year, excluding any "start up" costs or the costs of remediation. DOH's analysis indicates that the general fund cost will be in the range of \$96 to \$120 million over a six-year period. (On the capital side, the additional construction costs are projected to be \$130,000 for each new elementary school, \$287,000 for each new middle/junior high school, and \$510,000 for each new high school.) As stated in the July 28, 2008, letter to the Board from Senators McAuliffe, Tom, Brandland, and King, the Legislature must be given the opportunity to review the costs associated with rule implementation and to address these costs in the context of other budget decisions. Specifically, the Senators encouraged the Board: "to consider delaying the adoption of the rule change until the Legislature has the opportunity to review the final cost estimates and to determine a funding mechanism. A significant part of our budget planning will be dependent on the anticipated Basic Education Finance Report in December 2008. By delaying adoption of the School Environmental Health & Safety Rule, the Legislature will be better able to address the costs associated with rule implementation and to consider the costs of the rule in the context of other budget decisions." Thus, in order to avoid unintended budget impacts or, worse, to adopt a rule with no funding provided, the Board should not adopt the Proposed Rules prior to the completion of this process and the subsequent legislative review.

C. The provisions governing the application of the Proposed Rules to existing schools need to be amended.

The criteria for applying the Proposed Rules to existing schools need to be amended. We understand that the Board intended to require new schools to comply with the new International Mechanical Code (in Proposed WAC 246-366A-090), the general construction requirements (in Proposed WAC 246-366A-060), and a number of other new standards. These construction standards are best integrated into the design of a new school and would be costly to impose on existing schools. However, as drafted, the provisions lead to unintended consequences.

For example, it may not be possible to comply with the new construction requirements if a district is only making minor alterations to one science classroom. The district may not be able to "design ventilation systems to operate so that the air is not recirculated" just for the one classroom --- especially if the classroom is located on the ground floor in a multi-story structure. Furthermore, the district may not be able to change the air returns without creating a conflict with how the rest of the HVAC system for the school operates. Proposed WAC 246-366A-160(9). But as drafted, these new construction standards for science classrooms are triggered as soon as the classroom or space is altered. Proposed WAC 246-366A-005(5)(b). Furthermore, the building permit application could indicate that the district plans to change one component of the entire heating ventilation and air conditioning system HVAC system. For example, the district could be modifying and relocating some air ducts. Such an activity should not mandate changes to the location of all the air intakes or the application of the new International Mechanical Code

September 9, 2008
Page 4

to the entire renovation project, but the current language is unclear. Technically, this project would fall within the definition of an alteration or a change to the HVAC system (an "existing building system"). Since it meets one or both definitions, the project would trigger the application of Proposed WAC 246-366A-090 to the entire HVAC system. Proposed WAC 246-366A-005(5)(b), (c). These sections need to be amended.

Furthermore, the Proposed Rule governing the operation and maintenance of the HVAC systems in all existing schools is confusing and costly to implement. Proposed WAC 246-366A-095(2)(b) mandates that school facilities must "strive to provide outdoor air consistent with chapter 51-52 WAC." In order to respond to this requirement, districts will need to conduct a mechanical study and survey of all existing schools. As result of the studies, mechanical commissioning and test balance of the ("HVAC") systems in existing schools may also be required as follow steps.

While the Proposed Rules recognize that districts could meet the goals through "standard operation and maintenance best practices," there is no agreement on what constitutes "standard operation and maintenance best practices" for HVAC systems. The Proposed Rule suggests that making timely repairs and replacing filters and belts would be a part of these best practices, but the Rule also specifically states that this is not an all inclusive list and the exact requirements of the Proposed Rule will be subject to debate. Another area of confusion is the requirement that laser printers, photocopiers, and other office equipment must be located, operated, and maintained as recommended by the manufacturer in order to limit student exposure. Proposed WAC 246-366A-095(5). We would welcome additional discussions regarding the scope of the manufacturers' recommendations and the implications of this requirement.

D. The Board should not adopt through the rule-making process standards that Legislature has declined to adopt through proposed legislation.

As the Coalition stated in its April 13, 2006, comment letter, "the Proposed Rules attempt to incorporate legislative standards that the Legislature expressly declined to adopt in several recent legislative sessions." Proposed WAC 246-366A-070, regarding moisture control, mold prevention and remediation, addresses many of the same areas addressed in House Bill 2177 which the Legislature did not adopt in the 2005 and 2006 Legislative Sessions. In addition, Proposed WAC 246-366A-130, -135, and -140, regarding water quality monitoring, follows many of the same provisions in Substitute Senate Bill 6271 and Substitute Senate Bill 5029 that were introduced in the 2004 and 2005 Sessions and reintroduced in the 2006 Session. The Board should wait for additional direction from the Legislature and ask that the Legislature establish the statewide policies in these areas.

Furthermore, we would encourage consideration of the following amendments. First, Proposed WAC 246-366A-130(3)(a) should be amended and should require testing of 25 percent of the fixtures for lead rather than testing of 100 percent of the fixtures. Random sampling of 25 percent a school's fixtures is an accepted industry standard. If a problem is identified from the initial round of sampling, the district then moves to the next step and tests 100 percent of the school's fixtures. Second, the requirements to sample for copper and to sample for "other drinking contaminates" as directed by the local health officer should be eliminated. Proposed

WAC 246-366A-135 and -140. We question the scientific rationale for statewide copper testing at all grade levels. In the case of mandatory testing for "other drinking contaminants," the authorization granted to local health officers is too broad.

E. The Fiscal Analysis should be further refined.

We would like to work with BOH staff and DOH staff on revisions to the Preliminary Significant Analysis dated July 2008. We have some concerns that the description of the total cost estimates for school construction costs do not match the data that the Robinson Company prepared and that we submitted to DOH. While we understand DOH's efforts to compare apples to apples, the comparisons shown in the Preliminary Significant Analysis may mischaracterize the analysis prepared by the Robinson Company and we would like to address any potential confusion.

II. Technical Issues Regarding Specific Rules:

- A. Proposed WAC 246-366A-010(2), p. 2: The definition for "air contaminants of public health importance" is too vague. We recommend that the definition incorporate existing standards by reference to provide guidance. We propose adding the following underlined language:

"Air contaminants of public health importance" means pollutants in the indoor air that could, depending on dose and circumstances, have health impacts, including, but not limited to:

- a. Volatile organic compounds, for example, formaldehyde and benzene;
- b. Combustion by-products, for example, carbon monoxide and nitrogen oxides;
- c. Vapors and gases, for example, chlorine, mercury, and ozone;
- d. Heavy metal dusts and fumes, for example, chromium and lead; and
- e. Particulates, for example, wood and ceramic dust.

School officials and local health officers may refer to Typical Indoor Air Pollutants (Section E) in the U.S. Environmental Protection Agency (EPA) Tools for Schools or to the standards adopted by cognizant authorities as guidelines for determining the recognized exposure limits.

- B. Proposed WAC 246-366A-010(20), p. 3: First, the requirements should not apply to elementary schools. Second, the definition for "Laboratory" is too broad. The current language subjects art classrooms to the same standards as science laboratories. Art classrooms should not be included in this definition. But if art classrooms are to be included, at a minimum, the definition should be amended to be "film photography" or that digital photography is excluded. We recommend the following changes to the definition:

(20) "Laboratory" means instructional areas of the middle, junior high, and high school facility where students might be exposed to greater potential health and safety hazards than typically exist in general academic classrooms. Laboratories include, but are not limited to, science laboratories (for example: Chemistry, physics, material science, and biology) and art laboratories (for example: ~~Print-making, photography, and ceramics~~).

- C. Proposed WAC 246-366A-020, p. 6: The Proposed Rules do not mandate a local health officer ("LHO") training program to ensure consistency in the application of the Proposed Rules. They only require that training be made available to LHOs. We also recommend that the same training be made available to school districts. In fact, participation of LHOs and school districts in the same trainings may help to promote mutual understanding of the issues and the inspection protocols.
- D. Proposed WAC 246-366A-020(1)(f), p. 6: This section requires each school district, on an annual basis, to prepare a report to the public and to the school board on the environmental health and safety conditions in the schools. The scope and content of the report needs to be more fully defined to avoid duplication and to reduce costs.
- E. Proposed WAC 246-366A-020(2)(a)(i), p. 6: This section requires the LHO to conduct annual environmental health and safety inspections of each school facility. Based on staffing levels and program-implementation costs, both school districts and LHOs have expressed concerns regarding the requirement for annual inspections. We recommend changing the frequency of the inspections and changing to the proposed self-inspection program.
- F. Proposed WAC 246-366A-030(2), p. 8: The site assessment, review, and approval process may still be required when a school district is doing work at an existing school (for example, when a school is being rebuilt at an existing school site). We propose that this section be deleted.
- G. Proposed WAC 246-366A-030(5), p. 9: It is unclear why the Proposed Rules removed the requirement that the LHO consult with school officials to determine the requirements for site assessment and review and approval consistent with the scope of the planned school development. School officials should be consulted on these matters. We recommend that the language in the June 11, 2008, draft be restored.
- H. Proposed WAC 246-366A-030(5), p. 9: The Proposed Rules remove the following sentence from the prior draft: "Consider a request is complete upon receipt of the information required in subsection (4)(d) of this section." With the deletion of this provision, at what point LHOs may deem a request to be complete for the purposes of triggering the sixty day timeline (as set forth in proposed

September 9, 2008

Page 7

subsections -030(5)(c) and (d)) becomes ambiguous. The deleted language should be restored.

- I. Proposed WAC 246-366A-040(1)(c), p. 9: The application of the Proposed Rules to any addition or alteration of an existing school facility consisting of more than 5,000 square feet of floor area should be deleted. This threshold is too low and, as a result, it will apply the Proposed Rules to relatively minor construction projects. Instead, the Proposed Rules should be triggered only if the cost of addition or alteration exceeds 10 percent of the replacement cost.
- J. Proposed WAC 246-366A-060(2), p. 11: The clause "typical student" had been incorporated into a recent draft of the Proposed Rules, but was removed in the Published Rules. As written, the Rules do not address the situation where a student's individualized education program dictates that the student be placed in an alternative environment that does not have windows. We recommend reinserting the reference to a "typical student."
- K. Proposed WAC 246-366A-170(1)(a)(i)(C), p. 26: The clause a "comparable level of protection" in the variance process creates an unclear standard. It will be difficult for districts to obtain a variance in a timely manner. We recommend that the word "comparable" be deleted and that the underlined text be added:

How the proposed alternative will provide at least a comparable reasonable level of protection as that provided by the specific requirement, or how the strict enforcement of these rules creates a hardship on the school or school district, or how the variance is necessary because of the unique location of the school site or the unique condition of the school.

- L. Proposed WAC 246-366A-190(1)(b), p. 28: This subsection requires districts to "promptly" correct any conditions that are not in compliance with the Proposed Rules. The Proposed Rule does not consider whether the violation is technical in nature nor does it take into account the district's budgeting process. The Proposed Rules should permit flexibility for addressing technical violations, should take into account the nature and scope of the work, the budgeting process, and whether conducting the work immediately would be disruptive to the learning environment.

We appreciate this opportunity to comment on the Proposed Rules. If you have any questions, please call us at (206) 623-7580. Thank you.

Sincerely,



Denise L. Stiffarm
Legal Counsel

September 9, 2008

Page 8

cc: Members, Puget Sound School Coalition
Mukilteo School District
Spokane School District
Tacoma School District
Washington Association of Maintenance and Operations Administrators

From: Yuan, Grace [mailto:grace.yuan@klgates.com]
Sent: Tuesday, September 09, 2008 1:28 PM
To: McLaughlin, Craig D (DOH); Napolilli, Nancy (DOH)
Cc: Sharon Kennedy
Subject: Preliminary Significant Analysis

Craig and Nancy:

Attached please find the current versions of the Coalition's capital and maintenance and operations cost estimates for the Proposed BOH Rules . We sent the document addressing the M&O costs to DOH on June 26th and directly to Craig on July 16th. Our updated construction estimates reduced the projected cost for carpet and for the agency review and project approval process. We understand that Craig received the two documents at the WSSDA /WASA meeting on July 31st.

In reviewing the Preliminary Significant Analysis (Appendix C), we are concerned that the description of the total Coalition cost estimates differ substantially from the information prepared by Sharon Kennedy and that we provided to you. While we understand the Department's efforts to compare apples to apples, the comparison as shown on the Preliminary Significant Analysis may mischaracterize Sharon Kennedy's analysis. For example, Kennedy does not add to the total the additional cost for ducted air returns. We are designing our new schools without open air plenums. Thus, Kennedy did not include this cost in the total . But the DOH chart shows the cost in its summary of the Kennedy total. We are confused by how Kennedy's data is shown in the Preliminary Significant Analysis and are concerned that other readers will be confused by this as well.

The Kennedy summary chart shows the projected increase in school construction costs for an elementary school to be \$129,573. But the Preliminary Significant Impact Analysis reports Kennedy's cost to be \$296,574 for a new elementary school. The ducted air returns is the main reason for the difference.

But on the other side the ledger, several costs are missing from the "Construction Costs" comparison document. Kennedy's estimates for the following items are not shown on the comparison:

- Upgrade as designed louvers to screened louvers to control pests (\$13,437 for one elementary school).
- Upgrade health room (\$11,198 for one elementary school).
- Increase foot candle lighting in the Family/Consumer Science classrooms (\$1,971 for one middle/high school) and change out existing light fixtures in the Family/Consumer Science classrooms (\$8,410 for one middle/high school).

On the operation & maintenance side (Appendix D), the DOH excludes our estimate for a mechanical study and survey (\$12,877 for an elementary school).

We would welcome the opportunity to work with you to try to resolve these issues.
Thanks. Grace

Please note my new e-mail address - grace.yuan@klgates.com

Grace T. Yuan

K&L Gates

925 Fourth Avenue, Suite 2900

Seattle, WA 98104-1158

(206) 370-7814; fax (206) 370-6213

grace.yuan@klgates.com



THE
ROBINSON
COMPANY

DEPARTMENT OF HEALTH 3RD DRAFT RULES
SRRT 050708 MEETING NOTES WITH STAFF FOLLOW-UP
(6/4/08 DRAFT) Rev. 7/22/08
COST IDENTIFICATION WORKSHEETS
CAPITAL COSTS FOR SCHOOL FACILITIES

	ELEMENTARY FACILITIES	MIDDLE/JR HIGH FACILITIES	HIGH SCHOOL FACILITIES
WAC 246-366A-0030 Site Assessment	\$ -	\$ -	\$ -
WAC 246-366A-040 Construction Project Review	\$ 3,105	\$ 3,795	\$ 5,175
WAC 246-366A-050 Pre-Occupancy Inspection of Projects	\$ 2,300	\$ 3,450	\$ 5,750
WAC 246-366A-060 General Construction Requirements	\$ 86,843	\$ 140,508	\$ 231,830
WAC 246-366A-090 HVAC - Construction Requirements	\$ 37,325	\$ 74,650	\$ 149,300
WAC 246-366A-110 Lighting - Construction Requirements	\$ -	\$ 1,971	\$ 1,971
WAC 246-366A-115 Lighting - Operation and Maintenance Requirements	\$ -	\$ 8,410	\$ 8,410
WAC 246-366A-120 Restrooms and Showers - Const Requirements	\$ -	\$ -	\$ -
WAC 246-366A-125 Restroom & Showers - Operation and Maintenance	\$ -	\$ -	\$ -
WAC 246-366A-160 Laboratories and Shops - Construction Requirements	\$ -	\$ 53,748	\$ 107,496
Total Constuction/Capital Cost	\$ 129,573	\$ 286,531	\$ 509,931

COST ASSUMPTIONS:

New Construction is assumed to be projects currently in planning and design stages
Renovated Construction is assumed to be projects currently in the planning and design stages with
a scope of renovation planned at a minimum of 40% of the cost of new Construction

Costs are based on May 2008 pricing and do not include escalation/inflation
Costs do not include the removal of asbestos or hazardous material

60

PROJECT: DEPARTMENT OF HEALTH 3RD DRAFT RULES - SCHOOL REVISION TEAM DRAFT 5/20/08 DRAFT
ELEMENTARY FACILITIES
6/4/2008 Rev. 7/22/08

WAC 246-366A-0030 SITE ASSESSMENT

3c Phase 1 Environmental Survey
New or Remodeled Elementary

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Additional Site Survey/Study - Environmental Review -				
	There may be additional costs for Architect/Engineering fees for additional Environmental Review Survey and Study. Estimate does not include start-up costs for new programs.				
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL					

WAC 246-366A-040 CONSTRUCTION PROJECT REVIEW

1-4 Agency Review and Project Approval
New or Remodeled Elementary

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Prepare Documents, Submit, Monitor for Agency Review and Approval - Additional A/E Fees	18	HR	150	2,700
	This estimate does not include additional fees for LHJ review and approval.				
	This estimate does not include costs that may impact total project costs for delays in securing approval from the local health jurisdiction.				
SUBTOTAL					2,700
PROJECT DEVELOPMENT/SOFT COSTS				15.0%	405
TOTAL					3,105

WAC 246-366A-050 PRE-OCCUPANCY INSPECTION OF PROJECTS

Pre-occupancy inspection, review and walk through
New or Remodeled Elementary

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Pre-Occupancy Inspection - Additional A/E Fees	1	LS	2,000	2,000
	This estimate does not include additional fees for LHJ review and approval.				
	Estimated LHJ fees may increase due to additional scope of inspections				
SUBTOTAL					2,000
PROJECT DEVELOPMENT/SOFT COSTS				15.0%	300
TOTAL					2,300

61

WAC 246-366A-060 GENERAL CONSTRUCTION REQUIREMENTS

- (1) *Minimize conditions that attract, shelter and promote propagation of insects*
New or Remodeled Elementary

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Upgrade as Designed Louvers to 1/4 Mesh Screened Louvers (Intake/Exhaust)	600	sf	15	9000
		SUBTOTAL			9,000
		PROJECT DEVELOPMENT/SOFT COSTS			49.3% 4,437
		TOTAL			13,437

- (5) *Low Pile and tightly woven carpets with impervious backing*
New or Remodeled Elementary

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Upgrade to Carpet with Impervious Backing	3,333	sy	11.00	36,667
		SUBTOTAL			36,667
		PROJECT DEVELOPMENT/SOFT COSTS			49.3% 18,077
		TOTAL			54,743

- (7) *Fall Hazard Protection*
Elementary School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Modify and Provide Barrier Protection at Low Height Walls, Lockers	1	ls	5000	5000
		SUBTOTAL			5,000
		PROJECT DEVELOPMENT/SOFT COSTS			49.3% 2,465
		TOTAL			7,465

- (9) *Upgrade Health Rooms*
Elementary School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Hand Wash sink in Health Rooms				
	Current designs include hand wash sinks in Health Rooms. Existing facilities to be renovated may have been designed without sinks and could incur \$5,600 in additional cost to provide hand sinks in Health Rooms				
	Additional Ventilation system for Health Room	1	Rm	5000.00	5000
	Additional Roof Blocking/Curbs/Flashing	1	Units	1500.00	1500
	Electrical Connections	1	Rms	1000	1000
		SUBTOTAL			7,500
		PROJECT DEVELOPMENT/SOFT COSTS			49.3% 3,698
		TOTAL			11,198

WAC 2465-366A-090 Heating, Ventilation and Air Conditioning - CONSTRUCTION REQUIREMENTS

- (2) *Situate fresh air intakes away from building exhaust vents and other sources of air contaminants of public health importance in a manner that meets or exceeds the requirement in chapter 51-52 WAC.*

No additional cost since most new and renovated facilities comply

- (3) *Smooth, Non-Friable and Cleanable Air Duct Interiors
Elementary School Facilities*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Use sound attenuators (or sound cells) with insulation material encapsulated in tedlar (plastic) bags and perforated metal liner to comply with this requirement. This option may not be applicable to all buildings or all HVAC systems	50,000	sfa	0.50	25000
	If the school upgrades to "K" Duct Liner (acoustic duct) to comply with this requirement the cost would be \$111,975 per elementary school.				
SUBTOTAL					25,000
PROJECT DEVELOPMENT/SOFT COSTS				49.3%	12,325
TOTAL PER FACILITY					37,325

- (4) *Use ducted air returns. Open plenum air returns that use the open space above suspended ceilings must not be used
Elementary School Facilities*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Many new facilities are designed without return air plenums. No additional cost shown for New Facilities				
	Those new facilities that are being designed with return air plenums will incur additional cost for ducted returns in lieu of return air plenums. Additional cost to these facilities is \$109,400 construction cost and \$163,334 Project Cost based on a 50,000 sf facility				
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL PER FACILITY					

63

WAC 246-366A-095 HEATING AND VENTILATION - OPERATION AND MAINTENANCE

- (2) *Facilities constructed prior to effective date of rule, ventilate occupied areas of schools buildings during school hours and school-sponsored events and make all reasonable effort to provide outdoor air ventilation according to chapter 51-52 WAC Elementary School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Mechanical study and survey for facilities constructed prior to the effective date of rule.	50000	sf	0.17	8625
Note: This estimate does not include monies that may be needed to repair deficient items noted in the mechanical study and survey.					
If full mechanical commissioning, test balance is required for existing facilities constructed prior to the effective date of rule the additional cost is \$206,000.					
SUBTOTAL					8,625
PROJECT DEVELOPMENT/SOFT COSTS				49.3%	4,252
TOTAL					12,877

WAC 246-366A-120 RESTROOMS AND SHOWERS - CONSTRUCTION REQUIREMENTS

- (1) *Design Restrooms/Shower/Locker Facilities to meet or exceed 51-56 WAC Elementary Schools*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	New facilities are currently being designed, per code to meet these requirements. No additional cost incurred.				
	Existing renovated facilities may incur costs to meet these requirements.				
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL					

WAC 246-366A-125 RESTROOMS AND SHOWERS - OPERATION AND MAINTENANCE

- (1) *Restroom and Shower Rooms Elementary Schools*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	This costing excludes elementary facilities				
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL					

Project Development (Soft) Costs Include

Design Fees
Washington State Sales Tax
Construction/Design/Estimating Contingency
Testing & Inspection
Project Administration/Management
Permits
General Contractor OH&P

The Robinson Company
Elementary Facilities

PROJECT: DEPARTMENT OF HEALTH 3RD DRAFT RULES - SCHOOL REVISION TEAM DRAFT 5/20/08 DRAFT

MIDDLE/JUNIOR HIGH FACILITIES

6/4/2008 Rev. 7/22/08

WAC 246-366A-0030 SITE ASSESSMENT

3c Phase 1 Environmental Survey
New or Remodeled Middle/Junior High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Additional Site Survey/Study - Environmental Review -	1	LS		
	There may be additional costs for Architect/Engineering fees for additional Environmental Review Survey and Study. Estimate does not include start-up costs for new programs.				
				SUBTOTAL	
				PROJECT DEVELOPMENT/SOFT COSTS	
				TOTAL	

WAC 246-366A-040 CONSTRUCTION PROJECT REVIEW

1-4 Agency Review and Project Approval
New or Remodeled Middle/Junior High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Prepare Documents, Submit, Monitor for Agency Review and Approval - Additional A/E Fees	22	HR	150	3,300
	This estimate does not include additional fees for LHJ review and approval.				
	This estimate does not include costs that may impact total project costs for delays in securing approval from the local health jurisdiction.				
				SUBTOTAL	3,300
				PROJECT DEVELOPMENT/SOFT COSTS	15.0% 495
				TOTAL	3,795

WAC 246-366A-050 PRE-OCCUPANCY INSPECTION OF PROJECTS

1-4 Agency Review and Project Approval
New or Remodeled Middle/Junior High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Pre-Occupancy Inspection - Additional A/E Fees	1	LS	3,000	3,000
	This estimate does not include additional fees for LHJ review and approval.				
	Estimated LHJ fees may increase due to additional scope of inspections				
				SUBTOTAL	3,000
				PROJECT DEVELOPMENT/SOFT COSTS	15.0% 450
				TOTAL	3,450

65

WAC 246-366A-060 GENERAL CONSTRUCTION REQUIREMENTS

- (1) *Minimize conditions that attract, shelter and promote propagation of insects
New or Remodeled Middle/Junior High*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Upgrade as Designed Louvers to 1/4 Mesh Screened Louvers (Intake/Exhaust)	1200	sf	15	18000
	SUBTOTAL				18,000
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	8,874
	TOTAL				26,874

- (5) *Low Pile and tightly woven carpets with impervious backing
New or Remodeled Middle/Junior High School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Upgrade to Carpet with Impervious Backing	5,556	sy	11.00	61,111
	SUBTOTAL				61,111
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	30,128
	TOTAL				91,239

- (7) *Fall Hazard Protection
Middle/JRH School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Modify and Provide Barrier Protection at Low Height Walls, Lockers	1	ls	7500	7500
	SUBTOTAL				7,500
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	3,698
	TOTAL				11,198

- (9) *Upgrade Health Rooms
Middle/JRH School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Hand Wash sink in Health Rooms				
	Current designs include hand wash sinks in Health Rooms. Existing facilities to be renovated may have been designed without sinks and could incur \$5,600 in additional cost to provide hand sinks in Health Rooms				
	Additional Ventilation system for Health Room	1	Rm	5000.00	5000
	Additional Roof Blocking/Curbs/Flashing	1	Units	1500.00	1500
	Electrical Connections	1	Rms	1000	1000
	SUBTOTAL				7,500
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	3,698
	TOTAL				11,198

WAC 2465-366A-090 Heating, Ventilation and Air Conditioning - CONSTRUCTION REQUIREMENTS

- (2) *Situate fresh air intakes away from building exhaust vents and other sources of air contaminants of public health importance in a manner that meets or exceeds the requirement in chapter 51-52 WAC.*

No additional cost since most new and renovated facilities comply

- (3) *Smooth, Non-Friable and Cleanable Air Duct Interiors
Middle/Junior High School Facilities*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Use sound attenuators (or sound cells) with insulation material encapsulated in tedlar (plastic) bags and perforated metal liner to comply with this requirement. This option may not be applicable to all buildings or all HVAC systems	100,000	sfa	0.50	50000
	If the school upgrades to "K" Duct Liner (acoustic duct) to comply with this requirement the cost would be \$223,950 per elementary school.				
		SUBTOTAL			50,000
		PROJECT DEVELOPMENT/SOFT COSTS			49.3% 24,650
		TOTAL PER FACILITY			74,650

- (4) *Use ducted air returns. Open plenum air returns that use the open space above suspended ceilings must not be used
Middle/Junior High School Facilities*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Many new facilities are designed without return air plenums. No additional cost shown for New Facilities				
	Those new facilities that are being designed with return air plenums will incur additional cost for ducted returns in lieu of return air plenums. Additional cost to these facilities is \$218,750 construction cost and \$326,600 Project Cost based on a 100,000 sf facility				
		SUBTOTAL			
		PROJECT DEVELOPMENT/SOFT COSTS			
		TOTAL PER FACILITY			

WAC 246-366A-095 HEATING AND VENTILATION - OPERATION AND MAINTENANCE

- (2) *Facilities constructed prior to effective date of rule, ventilate occupied areas of schools buildings during school hours and school-sponsored events and make all reasonable effort to provide outdoor air ventilation according to chapter 51-52 WAC*
Middle/JRH School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Mechanical study and survey for facilities constructed prior to the effective date of rule.	100000	sf	0.17	17250
Note: This estimate does not include monies that may be needed to repair deficient items noted in the mechanical study and survey.					
If full mechanical commissioning, test balance is required for existing facilities constructed prior to the effective date of rule the additional cost is \$206,000.					
SUBTOTAL					17,250
PROJECT DEVELOPMENT/SOFT COSTS				49.3%	8,504
TOTAL					25,754

WAC 246-366A-110 LIGHTING - CONSTRUCTION REQUIREMENTS

- (1) *Provide Lighting intensities that meet or exceed those specified in Table 2.*
Middle/JR High Schools

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Increase foot candle lighting in Family and Consumer Science Classrooms from 30 to 50 foot candles (4 new lighting fixtures)	1	Rm	1320	1,320
SUBTOTAL					1,320
PROJECT DEVELOPMENT/SOFT COSTS				49.3%	651
TOTAL					1,971

WAC 246-366A-115 LIGHTING - OPERATION AND MAINTENANCE REQUIREMENTS

- (1) *Provide Lighting intensities that meet or exceed those specified in Table 2.*
Middle/JR High Schools

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Change out existing lighting fixtures in Family/Consumer Science Classrooms to meet or exceed 50 foot candle lighting	16	fixtures	385	6,160
	Minor Ceiling Patch	900	sf	1.65	1,485
SUBTOTAL					7,645
PROJECT DEVELOPMENT/SOFT COSTS				10.0%	765
TOTAL					8,410

WAC 246-366A-120 RESTROOMS AND SHOWERS - CONSTRUCTION REQUIREMENTS

- (1) *Design Restrooms/Shower/Locker Facilities to meet or exceed 51-56 WAC*
Middle/JR High Schools

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	New facilities are currently being designed, per code to meet these requirements. No additional cost incurred.				
	Existing renovated facilities may incur costs to meet these requirements.				
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL					

WAC 246-366A-125 RESTROOMS AND SHOWERS - OPERATION AND MAINTENANCE

- (1) Restroom and Shower Rooms
Middle/JR High Schools

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	New facilities are currently being designed, per code to meet these requirements. No additional cost incurred.				
	Existing renovated facilities may incur costs to meet these requirements.				
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL					

WAC 246-366A-160 LABORATORIES AND SHOPS - CONSTRUCTION REQUIREMENTS

- (1c) Plumbed waste drains designed to accept the rate of flow at emergency eye wash/showers
New Middle/Junior High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Plumbed waste drains at emergency showers and eye washes	8 Rms		2,500	20,000
SUBTOTAL					20,000
PROJECT DEVELOPMENT/SOFT COSTS				49.3%	9,860
TOTAL					29,860

- (3) Emerg shutoff (water, gas, elect
New Middle/Junior High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Single Master Switching for Emergency Shut-off Devices	8 Rms		2,000	16,000
SUBTOTAL					16,000
PROJECT DEVELOPMENT/SOFT COSTS				49.3%	7,888
TOTAL					23,888

ALTERNATE COSTING FOR MASTER SWITCHING AT 2 LOCATIONS FOR MULTIPLE DEVICES TO BE SHUT OFF
ESTIMATED COSTS NOT INCLUDED IN TOTAL

- (3) Emerg shutoff (water, gas, elect
New Middle/Junior High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Cost for Two Master Switching Devices for Emergency Shut-off			\$35,832	
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL					

Project Development (Soft) Costs Include

Design Fees
Washington State Sales Tax
Construction/Design/Estimating Contingency
Testing & Inspection
Project Administration/Management
Permits
General Contractor OH&P

69

PROJECT: DEPARTMENT OF HEALTH 3RD DRAFT RULES - SCHOOL REVISION TEAM DRAFT 5/20/08 DRAFT

HIGH SCHOOL FACILITIES

6/4/2008 Rev. 7/22/08

WAC 246-366A-0030 SITE ASSESSMENT

3c Phase 1 Environmental Survey
New or Remodeled High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Additional Site Survey/Study - Environmental Review -	1	LS		
	There may be additional costs for Architect/Engineering fees for additional Environmental Review Survey and Study. Estimate does not include start-up costs for new programs.				
SUBTOTAL					
PROJECT DEVELOPMENT/SOFT COSTS					
TOTAL					

WAC 246-366A-040 CONSTRUCTION PROJECT REVIEW

1-4 Agency Review and Project Approval
New or Remodeled High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Prepare Documents, Submit, Monitor for Agency Review and Approval - Additional A/E Fees	30	HR	150	4,500
	This estimate does not include additional fees for LHJ review and approval.				
	This estimate does not include costs that may impact total project costs for delays in securing approval from the local health jurisdiction.				
SUBTOTAL					4,500
PROJECT DEVELOPMENT/SOFT COSTS				15.0%	675
TOTAL					5,175

WAC 246-366A-050 PRE-OCCUPANCY INSPECTION OF PROJECTS

1-4 Agency Review and Project Approval
New or Remodeled High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Pre-Occupancy Inspection - Additional A/E Fees	1	LS	5,000	5,000
	This estimate does not include additional fees for LHJ review and approval.				
	Estimated LHJ fees may increase due to additional scope of inspections				
SUBTOTAL					5,000
PROJECT DEVELOPMENT/SOFT COSTS				15.0%	750
TOTAL					5,750

WAC 246-366A-060 GENERAL CONSTRUCTION REQUIREMENTS

- (2) *Minimize conditions that attract, shelter and promote propagation of insects
New or Remodeled High School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Upgrade as Designed Louvers to 1/4 Mesh Screened Louvers (Intake/Exhaust)	2400	sf	15	36000
	SUBTOTAL				36,000
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	17,748
	TOTAL				53,748

- (5) *Low Pile and tightly woven carpets with impervious backing
New or Remodeled High School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Upgrade to Carpet with Impervious Backing	8,889	sy	11.00	97,778
	SUBTOTAL				97,778
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	48,204
	TOTAL				145,982

- (7) *Fall Hazard Protection
High School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Modify and Provide Barrier Protection at Low Height Walls, Lockers	1	ls	10000	10000
	Orchestra Pit Rails	1	ls	4000	4,000
	SUBTOTAL				14,000
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	6,902
	TOTAL				20,902

- (9) *Upgrade Health Rooms
High School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Hand Wash sink in Health Rooms				
	Current designs include hand wash sinks in Health Rooms. Existing facilities to be renovated may have been designed without sinks and could incur \$5,600 in additional cost to provide hand sinks in Health Rooms				
	Additional Ventilation system for Health Room	1	Rm	5000.00	5000
	Additional Roof Blocking/Curbs/Flashing	1	Units	1500.00	1500
	Electrical Connections	1	Rms	1000	1000
	SUBTOTAL				7,500
	PROJECT DEVELOPMENT/SOFT COSTS			49.3%	3,698
	TOTAL				11,198

WAC 2465-366A-090 Heating, Ventilation and Air Conditioning - CONSTRUCTION REQUIREMENTS

- (2) *Situate fresh air intakes away from building exhaust vents and other sources of air contaminants of public health importance in a manner that meets or exceeds the requirement in chapter 51-52 WAC.*

No additional cost since most new and renovated facilities comply

- (3) *Smooth, Non-Friable and Cleanable Air Duct Interiors
High School Facilities*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Use sound attenuators (or sound cells) with insulation material encapsulated in tedlar (plastic) bags and perforated metal liner to comply with this requirement. This option may not be applicable to all buildings or all HVAC systems	200,000	sfa	0.50	100000
	If the school upgrades to "K" Duct Liner (acoustic duct) to comply with this requirement the cost would be \$447,900 per elementary school.				
		SUBTOTAL			100,000
		PROJECT DEVELOPMENT/SOFT COSTS			49.3% 49,300
		TOTAL PER FACILITY			149,300

- (4) *Use ducted air returns. Open plenum air returns that use the open space above suspended ceilings must not be used
High School Facilities*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Many new facilities are designed without return air plenums. No additional cost shown for New Facilities				
	Those new facilities that are being designed with return air plenums will incur additional cost for ducted returns in lieu of return air plenums. Additional cost to these facilities is \$437,500 construction cost and \$653,200 Project Cost based on a 200,000 sf facility				
		SUBTOTAL			
		PROJECT DEVELOPMENT/SOFT COSTS			
		TOTAL PER FACILITY			

WAC 246-366A-095 HEATING AND VENTILATION - OPERATION AND MAINTENANCE

- (2) *Facilities constructed prior to effective date of rule, ventilate occupied areas of schools buildings during school hours and school-sponsored events and make all reasonable effort to provide outdoor air ventilation according to chapter 51-52 WAC
High School*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Mechanical study and survey for facilities constructed prior to the effective date of rule.	200000	sf	0.17	34500
	Note: This estimate does not include monies that may be needed to repair deficient items noted in the mechanical study and survey.				
	If full mechanical commissioning, test balance is required for existing facilities constructed prior to the effective date of rule the additional cost is \$206,000.				
		SUBTOTAL			34,500
		PROJECT DEVELOPMENT/SOFT COSTS			49.3% 17,009
		TOTAL			51,509

WAC 246-366A-110 LIGHTING - CONSTRUCTION REQUIREMENTS

- (1) *Provide Lighting intensities that meet or exceed those specified in Table 2.
High Schools*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Increase foot candle lighting in Family and Consumer Science Classrooms from 30 to 50 foot candles (4 new lighting fixtures)	1	Rm	1320	1,320
				SUBTOTAL	1,320
				PROJECT DEVELOPMENT/SOFT COSTS	49.3% 651
				TOTAL	1,971

WAC 246-366A-115 LIGHTING - OPERATION AND MAINTENANCE REQUIREMENTS

- (1) *Provide Lighting intensities that meet or exceed those specified in Table 2.
High Schools*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Change out existing lighting fixtures in Family/Consumer Science Classrooms to meet or exceed 50 foot candle lighting	16	fixtures	385	6,160
	Minor Ceiling Patch	900	sf	1.65	1,485
				SUBTOTAL	7,645
				PROJECT DEVELOPMENT/SOFT COSTS	10.0% 765
				TOTAL	8,410

WAC 246-366A-120 RESTROOMS AND SHOWERS - CONSTRUCTION REQUIREMENTS

- (1) *Design Restrooms/Shower/Locker Facilities to meet or exceed 51-56 WAC
High Schools*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	New facilities are currently being designed, per code to meet these requirements. No additional cost incurred.				
	Existing renovated facilities may incur costs to meet these requirements.				
				SUBTOTAL	
				PROJECT DEVELOPMENT/SOFT COSTS	
				TOTAL	

WAC 246-366A-125 RESTROOMS AND SHOWERS - OPERATION AND MAINTENANCE

- (1) *Restroom and Shower Rooms
High Schools*

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	New facilities are currently being designed, per code to meet these requirements. No additional cost incurred.				
	Existing renovated facilities may incur costs to meet these requirements.				
				SUBTOTAL	
				PROJECT DEVELOPMENT/SOFT COSTS	
				TOTAL	

WAC 246-366A-160 LABORATORIES AND SHOPS - CONSTRUCTION REQUIREMENTS

(1c) *Plumbed waste drains designed to accept the rate of flow at emergency eye wash/showers*
High School

ITEM	DESCRIPTION	QUANTITY UNIT	UNIT COST	TOTAL
	Plumbed waste drains at emergency showers	16 Rms	2,500	40,000
	SUBTOTAL			40,000
	PROJECT DEVELOPMENT/SOFT COSTS		49.3%	19,720
	TOTAL			59,720

(3) Emerg shutoff (water, gas, elect
New High School

ITEM	DESCRIPTION	QUANTITY UNIT	UNIT COST	TOTAL
	Single Master Switching for Emergency Shut-off Devices	16 Rms	2,000.	32,000
	SUBTOTAL			32,000
	PROJECT DEVELOPMENT/SOFT COSTS		49.3%	15,776
	TOTAL			47,776

ALTERNATE COSTING FOR MASTER SWITCHING AT 2 LOCATIONS FOR MULTIPLE DEVICES TO BE SHUT OFF
ESTIMATED COSTS NOT INCLUDED IN TOTAL

(3) Emerg shutoff (water, gas, elect
New High School

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
	Cost for Two Master Switching Devices for Emergency Shut-off			\$71,664	
				SUBTOTAL	
				PROJECT DEVELOPMENT/SOFT COSTS	
				TOTAL	

Project Development (Soft) Costs Include

Design Fees
Washington State Sales Tax
Construction/Design/Estimating Contingency
Testing & Inspection
Project Administration/Management
Permits
General Contractor OH&P

DRAFT 6/30/2008 Annual \$ Per 50,000 sq foot Elementary School (DOH assumed 65,000 sq foot Elem School)

[illegible]

74

11*	246-366A-065(6)	Discourage staff from bringing into the classroom cleaners, sanitizers, and instruction-related supplies that may contain hazardous materials [Includes costs for round one program development and implementation costs] [middle/junior high school round one cost is \$1,500; high school round one cost is \$3,000]	GF	50				1,000
12	246-366A-070(4)	Notification regarding mold (assume allocation of costs on a system-wide basis; assumes use of emails and kid mail)	GF		500			
13	246-366A-080(2)	[Not included in total costs] Development of procedures regarding animals for a school or school district without procedure [One-time districtwide cost \$1,200.]	GF					
14	246-366A-095(5)	Move certain equipment to building locations with mechanical exhaust ventilation [middle/junior school cost is \$94; high school cost is \$189]	GF					63
15*	246-366A-095(2)	School officials shall, for school facilities constructed before the effective date of this rule, ventilate occupied areas of school buildings during school hours and school-sponsored events and make all reasonable efforts to provide outdoor air ventilation according to chapter 51-52 WAC. [Add cost for a mechanical study and survey? One-time cost or greater frequency? For each mechanical study and survey, add \$12,877 at one elementary school; \$25,754 at one middle/junior high school; \$51,509 at one high school] If mechanical commissioning and test balance is required for an existing school, this will add \$206,000 at one elementary school; \$412,000 at one middle/junior high school; \$790,000 at one high school.]						12,877
16	246-366A-095(5), (6)	Add mechanical exhaust ventilation for laminators. [One-time added cost of \$11,198 at one elementary school (assume 1 room); \$22,395 at one middle/junior high school (assume 2 rooms); \$22,395 at one high school (assume 2 rooms).] This cost estimate does not take into account increased energy costs. The conditioned air will be exhausted outside and additional energy will be spent to recondition the replacement air.		300				11,198
17	246-366A-095(7)	[Not included in the total costs] Take preventive action so that air contaminants of public health importance are not drawn into the building [Low-end cost estimate for filter replacement twice a year would be \$600 for filters and \$72 for labor for one elementary school.]	GF					

Page
Printed 3-13-06

3/8/2006 10:00:17 AM

With respect to proposed WAC 246-366-040, which identifies what the Local Health Officer "shall" do, please be advised that in Klickitat County the LHO shall continue to assess the needs of our own communities, and determine how to apply our extremely limited resources to best meet these needs. Be further advised that this is very unlikely to include annual inspections of all school facilities, regardless of what the Dept. of Health and the State Board of Health dictate we "shall" do. We will continue to be unresponsive to unfunded mandates. I request that the language in this section be amended to reflect a more cooperative and less dictatorial relationship between the State and LHJs. Thank you for considering this matter.

3/9/2006 8:21:20 AM

WAC 246-366-420 requires the local health officer to inspect each school at least annually for compliance with the regulations. THIS IS ANOTHER UNFUNDED MANDATE for local health jurisdictions. Some will say, "charge a fee to pay for the inspections". This will not work in Walla Walla County because fees will NOT PAY FOR AN ADDITIONAL SANITARIAN. So the extra workload falls on existing staff. Existing staff are currently maxed out - period! If the regulations are adopted with the annual inspection requirement, the inspections will not be done in Walla Walla County. Rewrite the regulations and place total responsibility for compliance on the school districts without a requirement for annual inspections by the local health officer.

Mark Cooper

Sept. 10, 2008

Handed to SBOH Staff During Oral Testimony

SBOH draft
Commissioning -
Board of ed work
Commissioning -

RECEIVED

SEP 10 2008

WA STATE BOARD OF HEALTH

Treuman Katz, Chair
Washington State Board of Health
Po Box 47990
Olympia, WA 98504-7990

Dear Mr. Katz:

My name is Susan Davison. I am a physical education teacher, employed by the Edmonds School District. I am a member of the Washington Education Association, and I support the WEA in advocating that the proposed school health rules be adopted without delay. I offer this letter to summarize the oral comments I plan to make on September 10, 2008.

Following a disappointing two year stay in a moldy, dusty, leaky old building, our staff was elated to move into a new school in the fall of 2000. However, immediately I began to develop worse health symptoms than at the temporary site: difficulty breathing, headaches, asthma attacks, sticky eyes (conjunctivitis); tickly nose, tingly lips and tongue, twitchy airways, sore throat, and great fatigue. Each day as I left the school, I began to feel better and during the weekend I was much better. When I came to work each day, symptoms would start all over again. I consulted my asthma/allergy doctor and ultimately several other doctors, who concluded that a sealant used on the gym floor as well as new paint smells, sewer gas, new mats and other things off-gassing had aggravated my previously existing asthma and caused the above symptoms as well. Many hours were spent on research into floor products after learning about and asking for an item called an MSDS report. I learned that the sealant used on my floor is currently ILLEGAL in California, New York, and other "green" states!

Beginning that fall of 2000, I began to ask my school district for help. I contacted my principal, the human relations department, custodians, school nurse, district safety specialist, and anyone who would listen. Because the building was so new, and under warranty, I was told to direct my complaints to the contractor, and I did so. There was no response. I then filed an incident report with my principal in November. I also sought help from the regional office in Everett of the Department of Labor and Industries which contacted the district regarding my concerns as well as those of other staff.

An HVAC system that did not work properly from the beginning of that school year exacerbated adverse effects of the noxious and toxic sealants. When the contractor tried to adjust the HVAC system to more outside air into the gym, it didn't work because the classroom numbers had been changed since the original design. No one notified the person programming the HVAC system. Thus, the increased outside air went somewhere other than the gym. Then, when the school district finally managed to deliver more outside air to the gym, occupants of other rooms in that building complained they were too cold. The HVAC system just did not work well at all.

Many staff and substitutes who entered my gym classroom would say, "How can you stand to be in here all day?" One other staff member, an assistant with special education classes, filed an incident report saying each day after being in the gym she had terrible headaches. Students would ask me about the smell and wonder if we might go outside instead. One comment from a first grader was that the gym smelled like a "giant eraser". Whenever we would try to run, students would gasp, hold their throats, and lean against the walls! It was definitely difficult to run a fitness program! Many special ed students have compromised immune systems, and far too many students today have asthma. They need a healthy environment to play in. (You would think that's what we go to a gym for!)

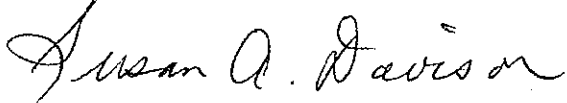
Over the last 8 years, I have repeatedly asked school district officials to stop using that sealant and to VENTILATE the gym after application over the summer: I have also repeatedly filed L & I claims. Nonetheless, the negative impact on my health has gone on because the school district continued to apply the same sealant every year and not ventilate the gym following application. Even the Independent Medical Examiners assigned by L & I concurred that the sealant was making me sick. Yet the school district chose to use the same sealant year after year, knowing its effect on me, my students, and other staff. (Our school nurse said that Meadowdale Elementary was the only school out of the 5 she goes to that makes her sick. She keeps a window open even in the winter in order to be in her office. Last year she was diagnosed with kidney cancer.) I now worry also about the long term damage to MY health such as liver damage, kidney damage, and cancer. In order to survive in my workplace, I have had to use multiple medicines: inhalers, eye drops, nasal sprays, steroids, antihistamines.

To me, the most appalling thing about this situation is that, for eight years, the school district did not act effectively to reduce damage to my health and the health of my students – no matter which school official or how many school officials I contacted, no matter how many L & I claims I filed, no matter how many doctors' letters I provided. In the face of all this information and requests for help, the district continued to use the same type of floor sealant every year, and continues to do so. (There are less toxic alternatives.) And, even though I previously and repeatedly requested it, not until the summer of 2008 did the District adequately ventilate the gym, by simply using floor fans and turning on the HVAC system after sealant application. (Now that the school district has ventilated properly after applying the sealant, my symptoms and student symptoms are better. I do notice a bit of a smell, and it is early in the year, but it definitely seems to be a big improvement.)

I urge you at this time to adopt the proposed new rules regarding air quality without delay, so others do not suffer the kind of health injuries described in this letter. I believe that the proposed new rules – those re operation and maintenance of ventilation systems, re annual environmental systems checks, and re an appeal process for environmental conditions impacting student health – would have been helpful to me and my students had they been in effect during the last 8 years.

I thank the Environmental Health Committee, the State Board of Health, its staff, the Department of Health, and its staff for developing these rules. Hopefully, the final step will be taken and the rules will be adopted sooner rather than later!

Sincerely,

A handwritten signature in cursive script that reads "Susan A. Davison". The signature is fluid and elegant, with a large initial 'S'.

Susan Davison
Teacher and WEA member

TO: CHAIRMAN

Public Testimony
9/10/08

(81)

Hello, I am Ed Foster, Director of Property of Construction Services for the Catholic Archdiocese of Seattle and I have served on the rule revision committee ~~these past 3~~ ^{Since} ~~years~~ ^{< 12 1/2} as a representative of the Washington Independent Federation of Schools (WFIS). ^{inception} My comments today are on behalf of the Washington State Catholic Conference, which represents the bishops of Washington State.

We acknowledge, in a time of greatly changing environmental awareness, that the existing Washington Laws are out of date. We are supportive of and committed to safe and healthy environments for our children, staff, parishioners and those using our facilities. The regulations before you for approval are balanced for the issues now facing us.

However, we are very concerned about the costs and timing of the implementation of these regulations. We would encourage further evaluation and study within the Small Business Economic Impact Statement given the differing size of private versus public schools. This will assist us in a more complete understanding of the costs to implement these regulations.

As we experienced during the 1980's with regulations requiring both public and private schools compliance to Asbestos in schools, we ask the State of Washington to commit adequate funding to both private and public schools to address the added costs for compliance to these new regulations.

To close, we are very committed to working with the State to successfully implement these regulations and I would like to offer a word of gratitude to the Department of Health staff who has worked very hard on a difficult issue.

Edward J. Foster
Director of Property and Construction Services
Catholic Archdiocese of Seattle
710 9th Ave.
Seattle, WA 98104

206-382-2064
edf@seattlearch.org

- Board of Directors -

CHRISTY B. CATHCART

ERIC K. GREENE

CARL R. JOHNSON

CHRISTOPHER A. STOKKE

BRUCE J. RICHARDS

GREGORY J. LYNCH
SUPERINTENDENT**Central Kitsap School District**RECEIVED
RECEIVED

SEP 16 2008

WA STATE BOARD OF HEALTH
WA STATE BOARD OF HEALTHFACILITIES DEPARTMENT
9102 DICKEY ROAD
SILVERDALE, WA 98132
(360) 662-8270 • Fax: (360) 662-8271
Web: www.cksd.wednet.edu

September 10, 2008

WASHINGTON STATE BOARD OF HEALTH
101 Israel Road SE
PO Box 47990
Olympia, WA 98504

Attention: Ned Therien, Washington State Board of Health

Subject: Comments Concerning Chapter 246-366A WAC, Primary and Secondary Schools

Dear Mr. Therien:

The Central Kitsap School District acknowledges the importance of a safe and healthy environment for students, staff, parents, and users of school facilities.

Presently, the Central Kitsap School District employs an Environmental Resource Coordinator, a mechanical engineer who is both a certified Indoor Environmental Consultant (CIEC) and a certified Indoor Air Quality Consultant (CIAQC), a certified AHERA Building Inspector and a certified National Playground Safety Institute Inspector to assure our schools, playgrounds, and playfields comply with existing regulations. Under the proposed revisions to WAC 246-366A the work these individuals perform for the District will be inspected by a Local Health Officer (LHO) who may or may not have the appropriate certifications, qualifications, and technical background.

With the proposed additions and changes to WAC 246-366A the local health board would be inserting itself into the approval and inspection of all new school construction and existing schools. In many of the new sections, it would appear that the LHO has been made the final authority on certain aspects of design, construction, and permitting issues and would have the authority to require design changes or to prevent occupancy of a new building.

According to the Board of Health's website, "The increase in costs for schools to meet these new construction provisions in the draft is estimated to be \$4-\$5 per square foot. The increase in costs for schools to meet new ongoing operation and maintenance provision in the draft is estimated to be \$6-\$18 per student per year. There are likely to be additional start-up costs." This would mean that a new elementary school in Central Kitsap would increase in costs by \$200,000-\$250,000. Annual operating costs would increase by \$69,000-\$207,000! These are costs that cannot be absorbed by the District without additional reductions taken from current educational programs.

An example of how the proposed operation and maintenance provisions would impact the Central Kitsap School District occurred this past week as a sanitary sewer backed-up at one of our junior high schools. The work order summary noted "At approximately 11:15 AM on Friday, September 5, 2008, the Maintenance Department received a telephone call from the Head Custodian at Central Kitsap Junior High School requesting help as the floor drains were backing up into the girl's locker room. A maintenance technician was dispatched to the site and he responded within 10 minutes. He snaked the plugged sanitary sewer line which cleared the obstruction (feminine napkin products were retrieved) and the custodians at Central Kitsap Junior High School cleaned and disinfected the area. Operations returned to normal within 45 minutes of receiving the request for assistance. The total area that was contaminated was approximately a 2 foot diameter in the girls locker room." Under the proposed rule revisions to WAC 246-366A-065, paragraphs 9 and 10 another step would have been added and the District would have been required to notify the Department of Health. We question the benefit of this action as our Maintenance and Custodial staff are well trained to handle incidents of this type and magnitude as they occur routinely.

The Central Kitsap School District appreciates the support the Department of Health provides our staff and students. We respectfully request the State Board of Health delay the decision and not enact these proposed rule revisions without first allowing a funding source to be identified.

We appreciate the opportunity to comment upon these proposed rules. If you have any questions please contact me at (360) 662-8275.

Sincerely,

CENTRAL KITSAP SCHOOL DISTRICT



Richard Best

Director of Construction, Facilities, and Maintenance
Central Kitsap School District No. 401

CRITICAL ISSUES THAT ARE CRUCIAL
TO SUCCESS OF ORIGINAL INTENT OF REVISION

- 1 Clearly defined complaint and appeals process extending beyond local control
- 2 Clear identification of "responsible party"
- 3 Inclusion of all occupants in rule language
- 4 Public notification of indoor air quality (mold) problems and potential problems
- 5 Indefinite record retention (In our technologically advanced 21st century, this can easily be achieved.)
- 6 Accommodations for effected occupants in IAQ (mold) events
- 7 Properly funded and qualified maintenance (dedicated funding?)
- 8 Qualified construction oversight; not educators (superintendents)
- 9 Proper training and/or resources for local health jurisdictions
- 10 Assurances that air systems work effectively as designed (commissioning)
- 11 100% fixture testing in all schools for lead contamination
- 12 Accountability of funding to assure "buying of apples not candy."

From: Jim Hale [Jimwpssc@comcast.net]
Sent: Wednesday, September 10, 2008 2:48 PM
To: DOH EH School Rule
Subject: WPSC Comments Regarding Proposed New Regulation
Attachments: WPSC Comments Wash. State Proposed Reg. .pdf

Mr. Therien,

Please see the attached *Wood Preservative Council Comments Regarding Proposed New Regulation Chapter 246-366A WAC, Primary and Secondary Schools.*

If you have any questions, please don't hesitate to call.

Respectfully submitted,
Jim Hale

Jim Hale
Executive Director
Wood Preservative Science Council
P.O. Box 183
Manakin Sabot, VA 23103
Tel: 804.239.8466
www.woodpreservativescience.org

9/18/2008

WPSC

Wood Preservative Science Council

September 10, 2008

Ned Therien
Washington State Department of Health
101 Israel Road SE
P.O. Box 47990
Olympia, WA 98504

**Re: Wood Preservative Science Council Comments Regarding Proposed New
Regulation Chapter 246-366A WAC, Primary and Secondary Schools**

Dear Mr. Therien:

This letter provides the Wood Preservative Science Council's (WPSC)¹ comments regarding the proposed restrictions on the use of creosote and CCA-treated wood for outdoor structures on school grounds. Based on the existing uses of CCA-treated wood and its safe history when used as recommended, the WPSC finds the proposed regulations pertaining to treated wood unnecessary and misleading.

The WPSC has concerns with the following sections of the proposed rules:

WAC 246-366A-060 General construction requirements. School officials shall:

(8) Prohibit the use of chromated copper arsenate or creosote treated wood where it is accessible to students.

WAC 246-366A-150 Playgrounds - Construction and installation requirements. School officials shall:

(d) Prohibit the use of chromated copper arsenate or creosote treated wood to construct or install playground equipment or landscape and other structures on which students may play.

WAC 246-366A-155 Playgrounds - Operation and maintenance requirements. School officials shall:

(2) Prohibit the use of chromated copper arsenate or creosote treated wood to repair or maintain playground equipment or landscape and other structures on which students may play.

¹ The WPSC is a trade association of manufacturers of water borne wood preservatives. It supports and participates in objective scientific analysis of water borne wood preservatives with a focus on CCA. We are supported by our members, Arch Wood Protection, Inc., Chemical Specialties Inc., and Osmose Inc. The WPSC consults with the nation's leading experts in the fields of environmental science, epidemiology, risk assessment, and toxicology.

September 10, 2008

Wood Preservative Science Council Comments Regarding Proposed New Regulation, Chapter 246-366A WAC, Primary and Secondary Schools

The Proposed Regulations are Unnecessary and Misleading

The proposed prohibitions on the use of wood treated with CCA to construct, repair or maintain structures such as playground equipment or other landscape structures are unnecessary because the current United States Environmental Protection Agency (EPA)-approved pesticide labels for the wood preservative chromated copper arsenate (CCA) do not allow these uses. The pesticide registrations for CCA products were modified as a result of a voluntary agreement reached in February 2002 between the registrants and EPA, in order to transition to a new generation of preservatives for most non-industrial applications. After January 1, 2004, following label amendment, CCA can no longer be used to treat wood for most non-industrial uses, including play structures, decks, picnic tables, landscaping timbers, residential fencing, patios, and walkways/boardwalks.² CCA continues to be sold to treat wood for many industrial, commercial and agricultural uses, such as marine and freshwater pilings, utility poles and cross arms, and highway structures (e.g., bridge components, guardrails, posts). Because the CCA manufacturers amended their EPA-approved pesticide labels to effectuate these changes, the use changes are enforceable by EPA and the states.

Based on our reading of the proposed regulations, they do not prevent the use of CCA or creosote treated wood utility poles, sign posts, or guardrail posts on or near school grounds. Unfortunately, the regulations are not clear in this regard because the language "*where it is accessible to students*" could be interpreted to prevent these approved and safe uses anywhere on school grounds. If the proposed restrictions on treated wood are adopted, utility poles, and roadside sign and guardrail posts should be exempted from the regulation.

There are No Unacceptable Risks Associated with CCA-Treated Wood Use

EPA recently completed an assessment of potential risks to children who play on CCA-treated play sets and decks³, and concluded that there are no unacceptable risks to the public for existing CCA-treated wood being used around homes. In its April 2008 advice to consumers, the Agency states the following: "*EPA does not believe there is any reason to remove or replace CCA-treated structures, including decks or playground equipment.*" "*EPA is not recommending that existing structures or surrounding soils be removed or replaced.*"⁴ Further, EPA has not recommended that there is any need to take steps such as applying coatings to minimize exposure.

² Specific information on the approved uses of CCA can be found at: http://www.epa.gov/oppad001/reregistration/cca/awpa_table.htm

³ "A Probabilistic Risk Assessment for Children Who Contact CCA-Treated Playsets and Decks, Final Report, April 16, 2008". US Environmental Protection Agency Office of Pesticide Programs, Antimicrobials Division.

⁴ "Chromated Copper Arsenate (CCA): Consumer Advice Related to CCA-Treated Wood, Current as of April 30, 2008". US Environmental Protection Agency Office of Pesticide Programs.

September 10, 2008

Wood Preservative Science Council Comments Regarding Proposed New Regulation, Chapter 246-366A WAC, Primary and Secondary Schools

In 2001 the US Consumer Products Safety Commission (CPSC) was petitioned to require play sets made from CCA-treated wood to be removed. Based on extensive analysis by Commission staff and public comment from some of the nation's leading scientific and medical experts, the CPSC concluded that no regulatory action was necessary or appropriate with respect to existing structures. The CPSC denied the petition in 2003.

WPSC Recommendations

In sum, the proposed rules are unnecessary because they prohibit the use of CCA-treated wood for uses that are no longer permitted under federal law. In addition, the proposed rules raise unwarranted safety concerns regarding CCA-treated wood and could be misinterpreted to prevent its use in applications for which it is approved, such as utility poles, and roadside sign and guardrail posts.

The WPSC recommends that WAC 246-366A-060, WAC 246-366A-150, and WAC 246-366A-155 be deleted from the proposed rules. Alternatively, if these proposed rules are adopted, all EPA-approved uses, including utility and transportation related uses, should be exempted from the prohibitions.

Thank you for considering our comments and recommendations. Please feel free to contact me if you have any questions or would like additional information.

Sincerely,



Jim Hale
Executive Director, WPSC

PUBLIC TESTIMONY – Concerned Everett Teacher

From: jr [mailto:protectkats@yahoo.com]
Sent: Wednesday, September 10, 2008 6:44 PM
To: DOH WSOH
Subject: Rules WAC 246-366 to be adopted

September 8, 2008

To Whom It May Concern:

I am a teacher at a school building in the Everett School District. I am not stating my name or the name of the building for fear of retaliation. The District denies that there is a problem at my school. Since I have taught there for 20+ years, I know of 2 teachers that developed a brain tumor. One has since died. Three teachers and two support staff have been diagnosed with breast cancer. One is deceased, and one asked for a transfer to another building due to health issues. Two people were diagnosed and suffer from multiple sclerosis. Seven teachers have suffered from sinus infections and three suffer symptoms similar to lupus or fibromyalgia. Many have left the building with health issues.

I have been diagnosed with severe chronic sinus infections that showed on an MRI. Sinus surgery was recommended, and several years ago the turbinates were enlarged. I have taken numerous rounds of antibiotics, allergy and decongestant medications, used nasal inhalants, and used a humidifier and air purifier at home and in the classroom. I have had allergy testing done, drainage tubes inserted in my ears on 3 different occasions due to fluid accumulation, light therapy on my nasal passages, acupuncture, and have missed numerous days of work due to related illness. I have seen numerous doctors for this condition and spent thousands of dollars. At home during the summer, my symptoms disappear.

I am concerned with the safety of the building and the health of the children and staff. I am watching my colleagues get sick and some die. The health of the students and staff is too important to wait any longer. Please allow these Rules WAC 246-366 to be adopted and work with the teachers and parents to strengthen them and provide the funds needed for implementation.

Thank you for your time,
A concerned teacher

PUBLIC TESTIMONY – David Harton (09/10/08)

From: Washington Federation of Independent Schools [mailto:jmorrison@wfis.org]
Sent: Wednesday, September 10, 2008 8:33 PM
To: Bernard, Nancy (DOH); Jennings Judy (WFIS); dharton8909@comcast.net
Subject: Fw: New Health and Safety Regulations

David,

I am forwarding your message to the Dept. of Health so it may be included in the comments they are receiving.

Jan

Jan L. Morrison, Assistant to the Director
Washington Federation of Independent Schools
435 Main Avenue South
Renton, WA 98057
Telephone: 425.228.WFIS (9347)
Fax: 425.228.9348
E-Mail: jmorrison@wfis.org

----- Original Message -----

From: "David Harton" <dharton8909@comcast.net>
To: <jmorrison@wfis.org>
Sent: Wednesday, September 10, 2008 1:55 PM
Subject: New Health and Safety Regulations

- > New Health and Safety Regulations
- >
- > I have been following the process as best that I can, regarding the new
- > proposed Health and Safety regulations. I watched the public hearing in
- > Spokane on our local TV channel.
- >
- > I have concerns that new regulations will cost my school and other private
- > schools money that we do not have. Because of the bad economy, I have lost
- > enrollment this year and I am way under budget.
- >
- > Public schools were testifying that this would be another unfunded mandate
- > to add to all of the other unfunded mandates they have.
- >
- > I would hope that someone/group could persuade the H&S people to exempt
- > private schools from any regulations that would cost us additional dollars.
- > At this point I have don't even have a clue as to what impact the new
- > regulations would have on us since in many instances they are very
- > technical.
- >
- > Anything you can do to help us will be greatly appreciated.
- >
- >
- > --
- > Dave Harton
- > Principal
- > Spokane Christian Academy
- > www.spokanechristianacademy.org
- > dharton8909@comcast.net
- > 509.924.4888
- > 509.924.0432 (fax)



91

RECEIVED

SEP 10 2008

September 10, 2008

Dear State Board of Health members,

WA STATE BOARD OF HEALTH

Whatcom County Health Department recommends the following items be addressed prior to the adoption of the proposed school rule in order to achieve successful implementation.

General:

1. WSDOH must provide local health jurisdictions and school officials with an inspection report form and a revised Health and Safety Guide.
2. WSDOH must provide relevant training to LHJ personnel (including NPSI training for playground inspections) to assure knowledge of inspection protocols.

Rule Section:

3. 246-366A-020: an imminent health hazard needs to include Norovirus outbreaks affecting 10% or more of a school population.
4. 246-366A-030: define who can conduct an Environmental Site Assessment (ESA).
5. 246-366A-060(9)(c): specify hand washing to include a sink that can deliver hot water to the faucet within 15 seconds, with single use soap and single use paper towels.
6. 246-366A-060(9)(d): adjoining restroom should be restricted to health room use only, not school students or staff.
7. 246-366A-065: prohibit the use of carpeting (regardless of water impervious backing) in Health Rooms and within 36 inches of all plumbing fixtures.
8. 246-366A-125(2): require hot water to arrive at hand washing fixtures within 15 seconds.
9. 246-366A-165(7): specifically require hand washing sinks in barns, shops, art rooms, and laboratories.

Thank you for the opportunity to comment.

A handwritten signature in cursive script, appearing to read "John Wolpin".



RECEIVED

SEP 10 2008

WA STATE BOARD OF HEALTH

STATE OF WASHINGTON

STATE BUILDING CODE COUNCIL

128-10th Avenue SW • P.O. Box 42525 • Olympia, Washington 98504-2525
(360) 725-2969 • fax (360) 586-9383 • e-mail sbcc@cted.wa.gov • www.sbcc.wa.gov

September 10, 2008

To : Washington State Board of Health

From: Tim Nogler, Managing Director, SBCC

RE: Proposed Rule Chapter 246-366A WAC-Primary and Secondary Schools

The State Building Code Council (SBCC) consists of fifteen members appointed by the Governor to represent constituent groups affected by the design, construction and regulation of buildings (RCW 19.27). The SBCC members also include four members of the state legislature and the chief electrical inspector at the Department of Labor and Industries as ex-officio members. The SBCC reviews and adopts the State Building Code (building, mechanical, fire, plumbing and energy codes) under chapter 51 WAC.

This summary of comments is based on staff review of the proposed Board of Health rules related to primary and secondary rules. The SBCC has not conducted a formal review process. The SBCC is interested in participating in future technical advisory committees to help promote consistent statewide interpretation of the rules. These comments are directed primarily at the issue of consistency between the state building code and the school rules.

General Comments:

The proposed rule Chapter 246-366A is a much needed update. Methods of design and construction change continuously as new technologies are introduced. The school rule has not been updated since 1971, and the proposed rule represents a thorough rewrite. The state building code is updated at least every three years, with minor amendments on an annual basis. This is necessary to address new technologies and building techniques.

The SBCC has a concern about coordination between the local health official and the local building official. Some of the BOH and SBCC rules overlap, and wherever possible the building department should address building code issues. There should be a feedback process through the technical advisory committees of the BOH and the technical advisory groups of the SBCC to address concerns wherever possible through future revisions to the rules.

Specific Comments:

WAC Section 246-366A-010 Definitions.

Several of the definitions are verbatim from the building code. (Addition, alteration, construction documents, repair). This will help the design community and provide consistency in application. It may also limit the application of the terms; a construction document needed for obtaining a building permit does not contain all the information needed for compliance with the school rule. This is addressed in the proposed rule by the requirement for additional documentation. This issue should be monitored by the technical committees.

It may be useful to include a definition of "state building code" for cross reference within the school rule.

WAC Section 246-366A-040 Construction project review.

Subsection 3(d) requires "construction documents" be submitted to the local health official. These documents will contain information not necessary for school rule review. This process should be monitored.

WAC Section 246-366A-050 Preoccupancy inspection of construction projects.

This section should indicate the timing of the "preoccupancy inspection" in relation to the final building inspection, whether it is intended to be before or after the final building department inspection. The local health officer is to "coordinate all construction-related inspections" (2a). Does this include structural or other inspections conducted by the building and fire departments? This process should be monitored.

WAC Section 246-366A-060 General Construction Requirements.

Items (4) and (7) are also covered by the building code. The slip resistance under item (4) is in addition to stairway requirements in the building code. The fall hazard measures under item (7) are covered by guardrail requirements in the building code, except for stages and orchestra pits. The guardrail requirements in the building code are very specific: height of rail, allowable openings, etc.

WAC Section 246-366A-090 Heating and ventilation—Construction requirements.

This section needs a general statement that all mechanical systems shall meet the state building code WAC 51. The provisions of the section may be equivalent or more stringent than the mechanical code (WAC 51-52) in specific areas, but the entire system must comply with the state building code at a minimum.

WAC Section 246-366A-095 Heating and ventilation—Operation and maintenance requirements.

A general statement requiring compliance with the state building code should also relate to this section. While these are operation and maintenance requirements, they could be interpreted to conflict with building and mechanical codes. Subsection (1) calls for maintaining minimum temperature (65 degrees F) ; the building code requires a system capacity capable of heating to 68 degrees F, at the winter design temperature- this is how the system is sized. Subsection (2) intends to require a ventilation schedule with the system operating at full capacity during "periods of ventilation". The mechanical code requires a ventilation system capacity (cubic feet per minute) based on the building area and the number of occupants. The ventilation schedule is normally based on the system demand according to industry standards. The state energy code requires new systems to be commissioned. The commissioning includes a maintenance and operation schedule. There may be an opportunity to coordinate these requirements with the mechanical design professional.

WAC 246-366A-115 Lighting—operation and maintenance requirements.

This section should reference the Washington State Energy Code (WAC51-11). The energy code designates a maximum lighting power allowance of 1.2 watts per square foot for schools. This section should state that lighting intensities must be achieved while meeting the lighting power allowance.

**Proposed Chapter 246-366A WAC, Primary and Secondary Schools
Web Comments Received No Later than September 10, 2008**

Aug 8 2008 1:46PM

WAC 246-366A-115(1): Table 2 lists minimum lighting intensities for several types of spaces in the school. Recommend reducing the minimum illumination level for shower rooms and locker rooms from 20 footcandles to 10 footcandles. Note that these are not average illumination levels, but minimum levels. The minimum lighting levels generally occur along the edges of the room, especially in the corners. State inspectors measure the illumination levels at various points where tasks are being performed in a room, not necessarily in the corners. Depending on the reflectance of the paint on the walls, it is often necessary to provide an average illumination nearly double the specified minimum levels in order to achieve the required minimum levels along the edges of the room. Nevertheless, in most cases the minimum levels specified in Table 2 are reasonable. The objection here is to the requirement for 20 footcandles minimum in shower rooms and locker rooms. IESNA is an organization that publishes design and application recommendations for the lighting industry. IESNA recommends 10 footcandles for locker rooms, and we have seen locker rooms lit to that level where the lighting was more than adequate for the tasks to be performed. If the minimum level in Table 2 for locker rooms were dropped to 10 footcandles, to achieve that minimum level, the average illumination in the locker rooms would still be in the 15 to 20 footcandles range. The current requirement for 20 footcandles minimum is overkill. Lowering the minimum illumination level in these spaces would allow for energy savings without compromising the health or safety of the students. In spite of the above comment, in the other cases the minimum levels specified in Table 2 seem reasonable. For reading #2 pencil, ball-point pen and 8-point to 10-point type, IESNA recommends 30 footcandles of illumination, which corresponds to the 30 footcandles required by Table 2 for classrooms. For laboratory work, rough bench or machine work, drafting on high-contrast media, and graphic design in moderate detail with photographs, IESNA recommends 50 footcandles of illumination, which corresponds to the 50 footcandles required by Table 2 for science laboratories, shops, drafting rooms, and arts and crafts rooms. For gymnasiums in educational facilities where basketball is to be played, the illumination recommended by IESNA is 50 footcandles, which is higher than the 20 footcandles minimum level for gymnasiums in Table 2; but the minimum level normally occurs around the edges of the gymnasium, not on the playing court, so 20 footcandles minimum for a gymnasium is still quite reasonable. Thus these minimum levels seem appropriate enough, except for the 20 footcandles minimum for shower rooms and locker rooms.

Aug 8 2008 1:51PM

WAC 246-366A-060(3): This paragraph requires sun control to exclude direct sunlight, but only for angles higher than 42 degrees. This does not seem to make sense for Washington. Recommend that this paragraph be rewritten to clarify the intent. This paragraph does not require the sun control to be fixed, so presumably blinds would meet the requirement. But why would sun angles below 42 degrees be an exception? In Spokane, even at noon the sun never reaches an angle of 42 degrees above the horizon from September 22 to March 19, which is most of the school year. Fixed-position shading for March 21 to September 21 is already covered in IEQ1.2 of the Washington Sustainable Schools Protocol, where it is optional. Such fixed shading may not always make sense for Washington schools. The idea may have originated from a California requirement that applies to south-facing windows, and is designed to reduce air conditioning

costs. Air conditioning is not as big of an issue in Washington as in California. Much of the school year we are heating the school buildings. If our state is going to have a rule regarding sun control, more thought should go into writing the rule so that it applies specifically to the needs of schools in our state.

Aug 28 2008 9:14AM

To all the members of the Board of Health: As a parent and citizen, I am unhappy and outraged that my child and other children have been set out to possible health risks in public schools that have not been held to the highest standards of health and safety. Our government agencies were trusted to enforce superior standards, not only some outdated and narrow minimum. Recent publicity has shown our trust to have been misplaced until the recent effort to finally improve on this backwardness in Washington State. Please do the right thing and approve the proposed updates. Thank you and sincerely, Gretchen Bennett Guethner Mother and Aunt of school-aged children Member, Shorecrest High School PTSA

Aug 28 2008 5:43PM

A new subsection to WAC 246-366A-020 needs to be added, to clarify where the statutory authority and responsibilities of school officials and local health officers are derived from. Suggested addition: (g) WAC 246-366A was promulgated under RCW 43.20.050, and is enforceable under RCW 43.20.050(4). This addition to WAC 246-366A-020 will clarify the intent of the revised WAC code. Most importantly, it will allow all interested parties to identify the relevant RCW that pertains to the actions and responsibilities of school officials and local health officers. RCW 43.20.050(4) is not currently transparent in the WAC code. Conflicts are likely to arise if the RCW pertaining to the authority and responsibilities of school officials and local health officers are not explicitly referenced in WAC 246-366A-020.

Sep 3 2008 3:31PM

If there had been a choice to select "Concur with comments", I would have selected that choice. But it appears that "Concur" means the reader doesn't need to review the comments. Bellarmine Preparatory School is in favor of the effort to update rules to better ensure the safety of students in public and private schools. Though it is difficult to evaluate all the consequences of the proposed rules changes, they do seem for the most part to be enforcing reasonable standards for the health and safety of school children. Our main concern is that private schools and their families not be required to pay for testing and monitoring requirements of the new rules. The "Preliminary Small Business Economic Impact Statement's" claim that the costs can simply be passed along to the family's paying tuition fails to recognize that many are exercising their right to choose the education for their children at great sacrifice. Family budgets and school financial aid programs are strained to the limit in many cases, and for some this could really spell the difference between being able to exercise that choice or not. Safety and Health issues should be state funded whether schools are public or non-public. We also believe that consideration should be given to further extending the time-line for any construction due to the impact of new requirements. Jack Peterson, President Bellarmine Preparatory School

Sep 4 2008 12:50PM

While many of us in the private school community join our colleagues in the state-funded schools in supporting provisions that promote safe and healthy environments for our students and

staff, I ask that the Board not enact these particular rule changes at this time. Though well intended, the economic impact, as outlined, would seriously impair the ability of both public and private schools to meet their mission of educating the K-12 population of this state. In particular, I refer to the Small Business Impact Statement of August 2008. In agreeing that there are possible ways that the burden could be mitigated for the private sector at the local level, our experience shows that each of these local agencies interprets the application of these types of Rules in such a wide variant - and with little consistency - that there would be no guarantee that our schools could expect any form of equitable application - or cost. I have heard statements made that our public schools shouldn't worry so much about the changes because, even if enacted, there would be little chance of funding being appropriated to cover the increased costs. Perhaps an exaggeration, but it illustrates, once again, that a double standard would be established where one sector could be forced into compliance while another might avoid the increased burden. All that said, the most distressing point made in the Impact Statement appears on page 7 - Jobs Created or Lost as a Result of the Rule. "The department assumes that any additional costs incurred by private schools will be passed on to parents via increased tuition rates." My question would be: "And that makes it OK?" Our parents are already burdened with "dual" taxation; once to support students in attending the state system via the current property tax structure and a second time when they exercise their right to choose a different form of schooling in a privately funded institution. Contrary to the myth, the majority of these families do not qualify in the highest tax brackets nor do they meet any possible definition of "rich." In many of our schools - mine is an example - more than eighty percent of families are on some form of tuition assistance. They are already contributing more than their fair share in this state because of long-standing misapplications of overly restrictive constitutional language. Adding to that abuse of their civil right to access an affordable educational alternative of their choice is irresponsible. Regardless of one's point of reference in that debate, what many fail to grasp is that each time regulations are passed that increase operating costs in the "nonpublic" sector, schools close. The five hundred private schools in this state (by way of their parents and supporters) currently save taxpayers more than a half billion dollars each year in operating costs alone. Figuring in the additional costs of transportation, capital construction and associated services should these schools close their doors tomorrow, is that really a bill Olympia wants to receive? Please do not approve these changes until more specific language and guarantees regarding equitable application can be crafted.

Sep 9 2008 2:06PM

I would like to express my opposition to the proposed rule changes. These rule changes are unfair for at least three reasons. First, I believe that there is a misunderstanding of private schools and the families that they serve. Most families in private school are middle-class Americans making sacrifices to send their children to schools that share their standards and values. The state already spends thousands more per student than we charge in tuition. Ordinary citizens, who are already paying thousands in property taxes, will be forced to pay even more for tuition just to maintain the standards that would be set by 246-366. These parents take nothing away from the public school by sending their children to private schools. Second, private schools serve many minority families and those in failing school districts that need alternatives. Third, these standards are unfair to schools with smaller student populations. As the small business impact statement makes clear, the estimated costs are for schools with hundreds of students. This means

that many small private schools will be unfairly burdened by these rule changes. These rules are the equivalent of holding a Mom and Pop to the same standards as Walmart.

Sep 9 2008 8:26PM

The Washington State Board of Health should act on WAC 246-366 on September 10th by PASSING the most recent version. Many schools throughout the state have deferred maintenance for far too long. Deferred maintenance eventually will cause unhealthy conditions. When mold and poor indoor air quality are not addressed properly our children and teachers become ill. When our children drink from water fountains that have excessive lead, and copper our kids and staff will get sick. Over many years I have heard many school district representatives address the SBOH in regard to WAC 246-366. Maintenance personnel and risk managers will request a delay in this process. They say another unfunded mandate will cause their district to cut other areas that will affect their schools. I know first hand that school districts will find the money in their budgets to implement these rules. They find money for litigation purposes when a parent or staff member brings forth a concern. So there is money there however some choose to use it to be REACTIVE rather than PROACTIVE. For those who testify this newest WAC revision will cause a hardship I ask you to consider the health of children and staff. I would like to think that most folks would not allow mold and poor indoor quality problems in their homes. Why would you allow it in a school setting? By asking for this revision to be delayed, you are requesting for our school district personnel be allowed to police themselves. In many cases this is not a successful method. For the health and safety of our children and the staff who teach them this new revision MUST BE PASSED.

Sep 9 2008 10:15PM

As someone who has testified since 1994 in front of the SBOH there were 2 things we always asked for. 1. Accountability, who had the authority to enforce the rules & 2. Enforcement, the WAC's needed to be enforced. WAC 246-366A-001 Introduction and purpose Statutory Authority with the RCW 43.20.050 has followed the introduction since 6/8/71. It provides clarity. Put it back. An RCW is quoted under Applicability (a) private residences Enforcement- Where is it? Under WAC 246-366A-190 Complaints Add (e) when all else fails testify to the SBOH Definitions: define the word shall In statutes shall is a direction, but not mandatory another dictionary defined it as an order, requirement, obligation. Which is it?

Sep 9 2008 10:39PM

I find it interesting that there is so much information about Asthma, effects of lead and mold, etc in this document and so much resistance to strengthen those areas in the WAC.

Sep 10 2008 8:56PM

Please pass the proposed School Rules WAC 246-366 now. The health of our students and staff remains at risk without these updated rules to protect them. There have been many who have asked these rules be delayed until there is funding. How can you put the health of our children before money? As a teacher, I became very ill, and watched as my students became sick, frustrated, unable to focus, and perform, let alone pass the mounting challenges of the WASL. If students are being affected by their toxic environments, then we must make changes to improve the facilities. You can not put a price on a child's health. How can you then insist children continue to attend school in buildings where they are exposed to bad air and water quality by

saying there is no money to provide students a "Clean Environment". We entrust our students to our schools. We entrust the State Board of Health to make the rules to govern these facilities. We will, in turn, entrust our Government and public to ensure the monies become available to fund these changes. When a child you taught dies of brain cancer, and you know the building you taught them in was in terrible disrepair, you know these rules can wait no longer. We need to act now. Please pass WAC 246-366 As for having to state if I agree with this or not, I clicked I agree. What I am agreeing to is the need for immediate action, to pass these Rules NOW! (Selecting one, when it is not stated what we are agreeing to, is confusing, if you can't go back and check.)

Sep 10 2008 10:30PM

September 8, 2008 To Whom It May Concern: I am a teacher at a school located north of Seattle. I am not stating my name or the name of the building for fear of retaliation. The District denies that there is a problem at my school. Since I have taught there for 20+ years, I know of 2 teachers that developed a brain tumor. One has since died. Three teachers and two support staff have been diagnosed with breast cancer. One is deceased, and one asked for a transfer to another building due to health issues. Two people were diagnosed and suffer from multiple sclerosis. Seven teachers have suffered from sinus infections and three suffer symptoms similar to lupus or fibromyalgia. Many have left the building with health issues. I have been diagnosed with severe chronic sinus infections that showed on an MRI. Sinus surgery was recommended, and several years ago the turbinates were enlarged. I have taken numerous rounds of antibiotics, allergy and decongestant medications, used nasal inhalants, and used a humidifier and air purifier at home and in the classroom. I have had allergy testing done, drainage tubes inserted in my ears on 3 different occasions due to fluid accumulation, light therapy on my nasal passages, acupuncture, and have missed numerous days of work due to related illness. I have seen numerous doctors for this condition and spent thousands of dollars. At home during the summer, my symptoms disappear. I am concerned with the safety of the building and the health of the children and staff. I am watching my colleagues get sick and some die. The health of the students and staff is too important to wait any longer. Please allow these Rules WAC 246-366 to be adopted and work with the teachers and parents to strengthen them and provide the funds needed for implementation. Thank you for your time, A concerned teacher r

Sep 10 2008 10:37PM

I responded under "Small Business Section" and could not transfer it to this section. I also attempted to email Ned Therien on this system and it did not work. It is my hope that you will review all categories for additional comments as each statement is important. It is paramount the School Rules be passed now, without further delay. Our children's health continues to be at risk without rules and enforcement.

Chapter 246-366A WAC, Primary and Secondary Schools
SUMMARY OF PUBLIC HEARING ORAL TESTIMONY
From the August 27, 2008 Meeting of the Washington State Board of Health

Eric Dickson, Industrial Hygienist with Educational Service District 101, testified that the proposed rules are better than earlier drafts. He gave kudos to staff for that. However, he said they were of concern because they would require a lot of school staff resources to implement. He mentioned that drinking water sampling would be costly because they would need to be taken in early in the morning. Most school districts would use in-house staff and training would be required. This could result in over time staff costs. In rural areas, there would be relatively high costs because of the great distance to transmit samples to laboratories. He asked the Board to re-evaluate the need for re-sampling every five years based on initial sampling results. He also clarified that carbon dioxide levels are only an indicator of poor ventilation. The current ASHRE recommended standard is no higher than 400 ppb above ambient levels. Ambient levels of carbon dioxide are usually about 700 ppb. He said that exceeding this recommended standard does not present a health hazard itself, but rather indicates poor ventilation to remove air contaminants and particulates.

Tere VonMarbod, Superintendent of Newport School District, said that state apportionment would be the money used to comply with these Board rules for her school district of about 1060 students. She has two maintenance personnel and four custodians for the school district. She said her staff numbers matched the state formula. She said giving new responsibilities to them would mean that something else they do would have to be dropped. She said there needs to be some funding for school districts to be able to respond to any deficiencies found, such as the small repair grants. She is not opposed to the rule, but needs funding to implement it. She is in a poor community and cannot expect levies to fund this.

Vicki Gardner, representing the Washington Education Association's Indoor Air Quality Task Force (teacher in the Mead School District), thanked the Board for the process to improve the rule. She urged adoption of the proposed rule without delay to protect student and staff health. She said that providing an effective date of September 2010 should provide adequate time to train staff and to seek funding to implement the rule. She said the WEA urged the Board to not wait for legislative action to adopt the rules.

Tim Wood, Interim Director of Maintenance and Operations for Spokane Public Schools and President of the Washington Association of Maintenance and Operations Administrators, testified that he thinks the proposed rule is an improvement over previous drafts. However, he said that the rules would be costly to implement and their complexity would make them difficult to implement consistently. He said that school district officials throughout the state have been very responsive for many years to protect the health and safety of students under existing rules. He said that he is proud of the cooperative relationship his district has with Spokane Regional Health District. Additional requirements might not be needed. He said that the proposed rules would be another unfunded mandate that would burden schools. He asked the Board to postpone adoption until the legislature has had a chance to determine funding. He said the rules should not be adopted without the provision of funding. He also said it is important to develop and train local health and school personnel before implementation to help assure consistent interpretation.

Jennifer Aspelund, parent, testified about concerns with the rule including: lack of a definition of mold; lack of specificity regarding cooperation between local health personnel and schools based on level of risk; the provision that local health officers could allow school districts to inspect themselves two out of three years; and lack of a timeline for DOH to establish an advisory committee. She asked that posting of notices at all entrances to school buildings affected by mold be required, as contained in earlier drafts. She said that posting at all entrances if there is mold contamination is very important to her. She asked for clarity about subsection 246-366A-095(3) about equipment or activities "that produce" air contaminants of public health importance. She asked that schools be required to provide restrooms for after hour uses of sports fields. She asked that requirements for walk-off mats and for drying of carpets cleaned by a wet method be included, as in the third draft. She asked for the addition of an enforcement section to specify accountability, similar to the statutory statement of responsibility for many types of public officials in RCW 43.20.050(5).

Denise Frisino, former teacher, testified that she has three concerns with the rules. Her primary concern is that enforcement provisions are not specified in the rule proposal. Other concerns were that teachers should be better protected by the rules and that mold provisions are not strict enough. She said that in 2000, while working at Hamilton International Middle School, she repeatedly tried to get school officials to address her exposure to dust from deteriorating floor materials that were identified by her doctor as contributing to health problems she had. The school moved exercise equipment in the room for students. She was transferred to Nathan Hale High School. She shared pictures of Nathan Hale High School and described evidence of mold contamination. She expressed concern with provisions requiring notification of mold exposure being triggered by greater than 10 square feet of mold involvement. She said that much less mold should trigger notification.

Rob VanSlyke, Executive Director of Operations for Bethel School District and member of the Pierce County Schools Coalition, thanked Board and DOH staff for many years of hard work. He said that he thinks trust was built during the process. He testified that the vast majority of school officials do all they can to protect the health of students and teachers. However, it is a real struggle for school officials to meet all the needs with the level of funding they have. He said that he thinks there is general agreement among school districts about the rules that there are positive provisions in the proposal, but they still have some apprehension about local health interpretations. The main issue is a need for funding for implementation. He asked that the Board work together with all parties to ask legislators for funding.

David Swink, Director of Environmental Health, Spokane Regional Health District, thanked the Board for allowing his agency to participate in development of the rule revision proposal. He said he particularly appreciates the flexibility built into the proposal for local inspection programs. He said he supported the proposed rules in concept, as long as adequate funding is provided to implement it. He said they are an improvement over the existing rules. He commented on the importance of good relationships between local health, school, and ESD personnel. This partnership has been promoted by their advisory committee. A collaborative approach is the key to school safety and should be encouraged for all jurisdictions. He said local health agencies need funding for staff resources and training to allow implementation. He said that a two year phase-in of the rules should be adequate time, provided resources are available. He said he supports delay in adoption so the legislature can consider funding, not only for

school districts, but also for local health and DOH. He said he would be submitting some technical comments on the proposal in writing later.

Doug Matson, Deputy Superintendent for West Valley School District in Spokane and President of Washington Association of School Business Officials, testified that many schools are having severe financial problems and cannot balance their budgets. He encouraged the Board to postpone adoption until the legislature has finished its study of basic education school funding. He said that schools cannot handle an unfunded mandate. He said schools are very concerned about the kids but need funding to be able to handle all they have to do.

Dan Hornfelt, Pullman School District, testified that compliance will be difficult for school districts because resources are becoming tighter. Schools were constructed according to the codes of the time. He asked that implementation of new requirements be incremental. He encouraged the Board to be sensitive to resource limitations of schools. He said that many initiatives seem to simultaneously be addressing the same concerns. These parallel efforts should be coordinated. He cautioned the Board about individual case sensationalism.

Thelma Simon, parent, thanked the Board for the rule and asked for immediate adoption. She said she has been working on this issue for 14 years. She commented about a DOH health survey in Cle Elum schools that identified health problems in students including depression and asthma. She testified that commissioning of new schools is very important to assure that contractors build safe schools and schools get what they paid for. She expressed concern that many provisions in the proposal have been part of the rules for 37 years. The fact that only some counties enforce them is an issue. She said that rules are necessary. Rules are needed for the ombudsman system to work. Regarding funding for the WASL, she said children cannot learn unless their environment is safe. She commented that carpet cleaning and drying are important. She said that providing walk off mats is also important.

103

**Chapter 246-366A WAC, Primary and Secondary Schools
SUMMARY OF PUBLIC HEARING ORAL TESTIMONY
At September 10, 2008 Meeting of the Washington State Board of Health**

Rep. Ross Hunter, said he was here to speak about the budget process in the Legislature. He asked the Board to recognize the legislative budget process because this proposal would significantly affect school budgets. The Legislature must decide on trade-offs. He said it is appropriate for the Board's rules to address new construction, but fixing older schools should not be included if it would impact maintenance budgets heavily. The rules should avoid establishing a paperwork-heavy process that might better be done on the Web. He wants the rule to be evaluated by the legislative budget process. This means a bill about the issue should be run through the process. He said he would be willing to work with the Board on the issues.

Susan Davidson, Edmonds School District teacher representing the Washington Education Association (WEA), testified that she has been having health problems for eight years caused by her school environment. She said that she has asthma that is activated by the floor sealers used in the school. She also described health effects on students coming into the gymnasium where she teaches. She said the HVAC system was not working properly and the contractor followed up with improper repairs. An independent consultant, to whom she was referred by L&I, recommended other sealants without benzene used. She said that the HVAC system was not turned on in the school for employees in late summer before students started school. She said teachers are in schools longer than students and are more affected by such issues. She urged adoption of the rules without delay. She provided written testimony.

Ed Foster, Archdiocese of Seattle, said his comments today were in behalf of the Washington State Catholic Schools Conference. He said they are supportive of improvements in the rules, but urged further study of the disproportionate impact on private schools. He said they would ask the state to fund implementation of any new requirements in private schools as well as for public schools. He provided written testimony.

Keith Simon, parent, said that until these rules are adopted, the Board would continue hearing about the same types of problems it has heard about for the past ten years. He said that funding would be found if the rules are adopted. He said his son had illness symptoms in his school, so he was removed. He commented on the differences between symptomatic and asymptomatic individuals and that those who are asymptomatic might later develop long-term health problems. He said it is not just students who need protection. The rules, for example, should also protect the grandmother who comes to attend a school event. He urged adoption.

Jill VanGlubt, Chair, WEA Indoor Air Quality Work Team, commented that the rules are needed to protect students. She said additional things could be done, such as requiring health and safety training of school teachers. The two-year delay in the effective date is a reasonable compromise. WEA urges adoption immediately.

Glenn Olson, Rainier Christian School, commented that he is supportive of the health and safety of students. The Small Business Economic Impact Statement indicates that there would be a

(104)

**Chapter 246-366A WAC, Primary and Secondary Schools
SUMMARY OF PUBLIC HEARING ORAL TESTIMONY
At September 10, 2008 Meeting of the Washington State Board of Health**

disproportionate cost to private schools. Increasing tuition to meet these costs may result in closure of some schools.

David Dumpert, North Kitsap School District, said they see some redundancy in these proposed rules. They see this as an unfunded mandate. They are seeing budget deficits and have had to discontinue some activities and programs; raise activity fees; as well as cut teachers. They are not against the rule, but ask it not be adopted until funding is provided.

Richard Staudt, Seattle Public Schools, said he thinks the proposed rules are good. His district has trained and experienced staff. They have adopted a drinking water monitoring policy stricter than the rules. They recognize that they have had indoor air quality problems. They have corrected them. Their citizens have passed levies to support these initiatives. However, some parts of the rule will require new funding. He urged the Board not take final action until the Legislature has had a chance to consider funding.

Sally McLean, Federal Way School District and representing Puget Sound School Coalition, said the Puget Sound School Coalition participated in developing the proposed rules. The Coalition hired a cost estimator to evaluate the rules and has recently revised them. She said that the Preliminary Significant Analysis does not accurately reflect their estimates. She said that drinking water testing and providing ventilation for laminators will be expensive and require taking money from other school needs. Federal Way School District is one of the ten largest in the state. However, they are comparatively poor. She said that the rules would cost the school district about \$1.4 million, about the same as they pay for nursing services. The Legislature needs to provide funding. Funding will not necessarily come just from passing rules. The Coalition encourages the Board to delay consideration of adoption until the Legislature can review the issues.

Grace Yuan, Puget Sound School Coalition, urged that the rules be specific to students. Language changes since the June draft seem to extend the rule to employees, counter to federal OSHA regulations. The rules should only specify heating and ventilation system changes for new construction. Ventilation provisions in the proposal are not clear. She referred to written testimony submitted. She recommended the Board let the current CR-102 lapse.

Judy Jennings, Washington Federation of Independent Schools, expressed support of the goals of a health and safe school environment; however, she asked that the period before implementation be extended. The cost will burden private schools. Many church-based schools use buildings not primarily used as schools. She said private schools should be funded to meet these requirements along with public schools.

Jim Chenoweth, Three Rivers Christian School, expressed concerns about the cost of the rules. Raising tuition will cause the loss of students and possible closure of schools. He gave some examples of financial problems of families of students. He asked that any new requirements be funded by some other method than just going to the parents.

Richard Best, Central Kitsap School District, said his district employs trained and certified personnel to assure the safety of facilities and playgrounds. The local health inspector may not

**Chapter 246-366A WAC, Primary and Secondary Schools
SUMMARY OF PUBLIC HEARING ORAL TESTIMONY
At September 10, 2008 Meeting of the Washington State Board of Health**

have similar certification, but would have authority to require costly facility changes. Last week a sanitary sewer backed up into a school. The maintenance staff solved the problem within hours. He questioned the provision in the rule that required the school to notify the local health agency in such a situation. He provided written testimony.

Maria Mason, parent, said she believed the Board needed to cite its statutory authority in the published rule. She asked that the complaint section include a provision for a person to testify to the State Board of Health. She recommended a need to define "shall." She said that legislators and the Governor should hear about the need for these rules.

Mark Cooper, parent, handed out pictures of a ceiling collapse at his son's school (Eckstein Middle School, Seattle). He pointed out apparent mold on the ceiling. He recommended that the ten square foot provision in the rule that triggers notification be reviewed. He said that he has talked to legislators that advised him to work to get the rule passed and they will find money for funding. He said he is concerned that without a rule, nothing will be added to the budget to solve these problems. He said that it is important to reference the Board's statutory authority in the rule language to enhance enforcement. He also provided copy of RCW 43.20.050.

James Green, parent, commented that we are talking about minimum standards. Better enforcement is needed. The protection of children is what is important. He urged adoption. He provided written comments.

Mary Sue Linnville, Washington Schools Risk Management Pool (WSRMP), and Paul Harrison, Schools Insurance Association of Washington and United Schools Insurance Program of Washington, said that their organizations together insure all public schools in Washington. They testified that both of their organizations have personnel well versed in all areas of school safety. Last year, the WSRMP made 376 visits of schools and conducted 80 training sessions. Schools are rewarded with lower insurance payments for implementing best practices. Training of school staff is more important than conducting inspections. Their injury statistics show a major decrease since the K-12 Health and Safety Guide was adopted. Ms. Linville asked the Board to switch gears: updating the K-12 Guide first. Mr. Harrison said that he works with more than 200 school districts in Washington and none has "turned a blind eye" to a safety concern for students. He also encouraged updating the K-12 Guide and improving training of local health staff. They volunteered to work on any committee to help update the K-12 Guide.

Art Starry, Thurston County Health Department Environmental Health Director representing the Washington State Association of Local Public Health Officials (WSALPHO), said training of local health staff is needed. He said WSALPHO generally likes the way the rule is written, especially the two years delay in effective date.

Debra Fulton, Mukilteo School District, commented that she used to manage the water quality laboratory for the State of Montana. She said that the Washington Association of School Administrators worked with legislators in the past not to impose testing of drinking water for lead. They now see a need for lead testing, but at a reduced level from the proposal. She said that construction issues should be addressed in building codes, not in this rule. She said that by

**Chapter 246-366A WAC, Primary and Secondary Schools
SUMMARY OF PUBLIC HEARING ORAL TESTIMONY
At September 10, 2008 Meeting of the Washington State Board of Health**

including employees in the rule, it would set a different standard for employees who work in school facilities and those employees of school districts that do not. She said they worry about consistency in interpretation when local health staff might not be well trained. She had concerns about some parts of the Significant Analysis. She urged delay in adoption.

Lisa Iverson, Pacific Northwest Association of Private Schools, said they did not question the value of the rules for health and safety. However, private schools feel overwhelmed by the potential cost impact. They encouraged very gradual phase in, with construction requirements first. Parents of private school students would feel doubly hit by taxes for schools and increased tuition. The original mission of schools, teaching, seems to get lost. She urged delayed consideration for adoption.

Denise Frisino, former school teacher, said that she asks teachers that she runs into if they know about the rule revision proposal. Few say they do. She also has heard from teachers who have health problems that they link to their school environment are afraid to speak out for fear of retaliation. When she had health problems and wanted to challenge her employer, she said L&I was not supportive and told her to hire an attorney. She urged adoption.

Jennifer Aspelund, parent, asked all in room: "What price do you put on a life?" She described the difficulty she had when she asked for a school repair because of her child's health problems. She urged adoption without delay. She said the delayed effective date gives adequate time for schools to seek funding.

Janelle Neil, Academy School in Kent, said her school has only 52 students in rented space. She said the rules would impact her school severely and disproportionately compared with large public schools. She asked the Board to further consider impact on private schools and poor public school districts. She encouraged the Board to avoid a "one solution fits all" approach.



RECEIVED

SEP 12 2008

WA STATE BOARD OF HEALTH

Washington State Senate

Olympia Office:
PO Box 40433
Olympia, WA 98504-0433

Senator Karen Keiser
33rd Legislative District

(360) 786-7664
TTY: 1-800-635-9993
Toll-Free Hotline: 1-800-562-6000
E-mail: keiser_ka@leg.wa.gov

September 11, 2008

Treuman Katz, Chair
Washington State Board of Health
PO Box 47990
Olympia, WA 98504-7990

Dear Chairman Katz-

I am writing you today to share my concerns regarding the Board of Health's (BOH) consideration of proposed changes to Chapter 246-366A of the Washington Administrative Code. Various issues have come to my attention which leads me to believe that legislative review of the proposed rules would be a prudent step prior to adoption. Therefore I am asking the Board of Health to postpone further consideration of any changes until after the 2009 Legislative session.

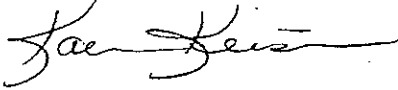
I am aware that the current WAC is outdated and does need revision. Recent events involving water and mold in schools also indicate that some districts may need assistance in directing efforts to provide safe school environments. However, a "one size fits all approach" may not be beneficial to all districts and could in fact cause financial difficulty where none need be created. For example, if a district were to test its systems for lead, find none and make no changes to the system to introduce such a hazard, is it necessary to continually test the supply? In such a situation, are we actually increasing the safety of the school environment or consistently reconfirming what we already know? I use this as one example of creating a rule which may need to be developed to allow for flexibility among districts.

At the September 10th meeting of the BOH there was also testimony centered on exemptions for small private schools due to the cost burden of compliance. I believe that at this late date, if the BOH is still considering who will or will not be included in the rules, that it is clear that further review is needed. Just this issue alone raises the question of what constitutes a small school, will public schools also be eligible, what is considered an undue burden for these schools, and how that would balance with the goals of a safe school environment.



With these concerns in mind, I strongly suggest that the Board of Health withhold any decisions until after the 2009 Legislative session, giving legislators and all parties concerned more time to examine this issue.

Sincerely,



Senator Karen Keiser
Chair, Health and Long Term Care Committee
33rd Legislative District

cc: Christina Hulet, Executive Policy Advisor, Office of the Governor
Craig McLaughlin, Executive Director BOH
John Welch, Superintendent, Highline School District

From: McLaughlin, Craig D (DOH)
Sent: Monday, September 15, 2008 3:10 PM
To: Bambrick, Cathy (DOHi)
Cc: Boe, Heather D (DOH); Therien, Ned (DOH)
Subject: RE: School Rules Comments

Cathy,

We can certainly communicate your comments to the Board even if the deadline has passed.

Craig

[illegible]

Craig McLaughlin, Executive Director
Washington State Board of Health
PO Box 47990, Olympia WA 98504-7990
360 236-4106 (voice) | 360 236-4088 (fax)
<mailto:craig.mclaughlin@doh.wa.gov>
<http://www.sboh.wa.gov>

Always Working for a Safer
and Healthier Washington

From: Cathy Bambrick [mailto:cathy.bambrick@co.kittitas.wa.us]
Sent: Monday, September 15, 2008 2:58 PM
To: DOH WSOB
Subject: School Rules Comments

Greetings,

I know I'm late but I have a letter to submit for consideration to the SBOH about the School Rules. Please let me know if you have to disregard my submittal. I have a community person who has brought it to my attention that I missed the deadline – Thelma Simon. I need to respond to her if you indeed do not accept my comments. Again, I apologize for the delay.

Thank you

Cathy Bambrick
Administrator
Kittitas County Public Health Department



110

To Protect and Promote the Health and the Environment of the People of Kittitas County

September 10, 2008

Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

To Whom It May Concern,

Kittitas County Board of Health and Public Health Department would like to formally submit our support for the State Board of Health's proposed update of the current school rules, WAC 246-366 (to be replaced with WAC 246-366A) with the caveat that sufficient time is allotted for local health jurisdictions to receive training, acquire staff, materials and other essential items necessary to effectively implement the regulation. Also, consideration for funding needs is critical for local health jurisdictions that do not have financial systems in place to implement the rules.

The current rules have been in place since 1971. Kittitas County is one of only nine local health jurisdictions with an active school health and safety inspection program. However, the proposed rules include new program elements that are more extensive than the current ones. The new rules add drinking water testing within the school for lead and copper contamination.

There are great concerns about the resources needed to successfully implement the new rules, even for counties that currently have school health and safety programs. WSALPHO expressed these concerns in a letter to the State Board of Health. Passage of new rules will create the expectation that local health is able to inspect schools without additional funding. Public Health Departments across the state are cutting programs and staff due to budget shortfalls.

The Washington State Department of Health is preparing a funding request so they have the resources to provide training and technical support for the new rules. If approved, the request would address some of our needs by providing training and technical assistance to local public health agencies. We greatly encourage support of the Department's proposal.

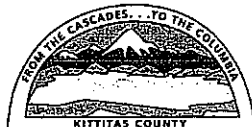
We would also support a reasonable delay to the adoption of the rules so the Legislature can look into funding issues associated with them. While we currently have the mechanism in place to bill schools for our inspections, other local health jurisdictions do not. Thank you for your consideration of our request.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Bambrick".

Catherine Bambrick, Administrator

Kittitas County
Public Health Department
507 N. Nanum Street, Suite 102
Ellensburg, WA 98926
T: 509.962.7515
F: 509.962.7581



www.co.kittitas.wa.us/health/

Environmental
Health Services
411 North Ruby Street, Suite 3
Ellensburg, WA 98926
T: 509.962.7698
F: 509.962.7052

111

From: janelle neil [mailto:janelleil@comcast.net]
Sent: Monday, September 15, 2008 2:33 PM
To: DOH WSOB
Cc: 'Meade Thayer'; 'Judy Jennings'
Subject: Meeting September 10th

To the members of the committee:

First and foremost, thank you for all of your hard work on student health and safety. I am equally thankful that I am not sitting in the chair next to you with the responsibility you have. It must be challenging to be required to make regulations, and then be 'under fire' for the recommendations you have made.

After attending the meetings September 10th, testifying, and hearing your concluding remarks, I have gained a greater appreciation for your job and ask that you continue to pursue safe measures for students/employees that are working in potentially 'sick buildings'. Keeping employees and children safe is of critical import.

In terms of 'how' this can be accomplished, several things need to be taken under consideration. As testimony indicated, there are many public school districts that are less-affluent than others, as well as the overwhelmingly negative impact these regulations would have upon the smaller, independent schools. There are also a number of private schools-both large and small- that will be impacted by an across-the-board rule of law.

I hope a method would arise out of these meetings that would establish regulations that do not follow a 'one size fits all' regulatory approach. Rather the development of a rating system that would be establish levels of 'threat' to health or injury and possible interventions, enforcement, and appeal must be established along with the regulations. Thus if a situation presents a seriously danger to staff or students (similar to restaurant closures ratings), the building could be closed pending repair of named hazard. However if there is an issue (sample, venting laminators), the inspector should have a 'sliding' scale of safety measures to follow and affordable intervention strategies suggested, time to repair, or 'ticket/fine' and appeal process.

As I am sure the Building Department had major objections to construction mandates coming from outside of their department, the objections do not negate the need to keep buildings safe. Once other regulating departments enter into construction regulations, a whole layer of problems will surface and might to bring a landslide of impossible regulations down on schools - old or new construction. Resulting in which laws are obeyed, which are mandated and who inspects and approves buildings? Specific regulations must be aligned so that schools know whose regulations they are following: Health or Building Department?

Finally, smaller private schools that share space with another entity (whether religious or non religious); despite the word of the regulation, small schools cannot always obey regulations as they may, for example, use the Sanctuary/Temple areas for assemblies; or utilize only a portion of the building and/or share the building with another entity (such as a church school sharing space with a Montessori school and a Head Start Program.

Again, I appreciate your hard work, and if there is any way I may be of service to you, I am willing to help. I would rather be part of a solution, than a problem.

Janelle Neil
Head of School
Academy Schools, Kent, WA
253-852-4949
318 5th Avenue South
Kent, WA 98032